

SECTION 4. Section 41 of chapter 3 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:—

The state secretary shall assess each executive and legislative agent a filing fee upon entering the agent's name upon the docket. The fee shall be \$1,000 for initial annual registration and \$1,000 for subsequent annual registrations. The state secretary in his discretion may waive for good cause upon written request this increase in filing fees for executive and legislative agents who exclusively file to represent not for profit entities.

SECTION 5. Said chapter 6 is hereby further amended by striking out sections 43, 44 and 45.

SECTION 6. Section 116A of said chapter 6 is hereby further amended by striking out, in line 15, as appearing in the 2000 Official Edition, the words "metropolitan district commission".

SECTION 7. Section 135 of said chapter 6, as so appearing, is hereby amended by adding the following paragraph:—

The fee for each identification card issued by the commission shall be not less than \$15. This card shall be valid for 5 years and then may be renewed for a fee of not less than \$15. If a card is lost or stolen, the commission may issue a duplicate card for a fee of not less than \$10. A fee shall not be collected from a person registered with the commission who is receiving supplemental security income pursuant to title XVI of the federal Social Security Act, 42 U.S.C. §1381 et seq. The commission shall determine the fee annually by regulation.

SECTION 8. Section 136 of said chapter 6, as so appearing, is hereby amended by adding the following paragraph:—

The commission may issue a certificate of blindness to certify that a resident is legally blind as defined in this section. The commission shall charge a fee of not less than \$10 for each certificate of blindness that it issues. No fee shall be collected from a person registered with the commission who is receiving supplemental security income pursuant to title XVI of the federal Social Security Act, 42 U.S.C. §1381 et seq. The commission shall determine this fee annually by regulation.

SECTION 9. Section 156 of said chapter 6 is hereby amended by inserting after the word "be", in line 1, as so appearing, the following words:— within the executive office of public safety,.

SECTION 10. Said section 156 of said chapter 6 is hereby further amended by striking out, in line 7, as so appearing, the words "metropolitan district commission".

SECTION 11. Said chapter 6 is hereby amended by striking out section 172A, as so appearing, and inserting in place thereof the following section:—

Section 172A. The criminal history systems board shall assess a fee of \$30 for each request for criminal offender record information. A fee shall not be assessed for a request from a victim of a crime, a witness or a family member of a homicide victim, all as defined in section 1 of chapter 258B, from a governmental agency or from such other persons as the board shall exempt. The criminal history systems board shall assess a fee of \$25 for each request for criminal offender record information from an individual seeking to obtain criminal offender record information pertaining to himself; provided, however, that if a person shall be found indigent, as defined in section 27A of chapter 261, the board shall not impose a fee. All such fees shall be deposited into the General Fund.

SECTION 12. Said chapter 6 is hereby further amended by inserting after section 178P the following section:—

Section 178Q. The sex offender registry board shall assess upon every sex offender a sex offender registration fee of \$75, hereinafter referred to as a 'sex offender registry fee'. Said offender shall pay said sex offender registry fee upon his initial registration as a sex offender and annually thereafter on the anniversary of said registration; provided, however, that no such fee shall be assessed or collected until the offender has either (1) waived his right to petition for an evidentiary hearing to challenge his duty to register as a sex offender as set forth in section 178L or (2) has completely exhausted the legal remedies made available to him to so challenge said duty to register pursuant to sections 178L and 178M and has not prevailed in his attempt to eliminate said duty. A sex offender's duty to pay the fee established by this section shall only terminate upon the termination of said offender's duty to register as a sex offender as set forth in section 178G.

The sex offender registry board may waive payment of said sex offender registry fee if it determines that such payment would constitute an undue hardship on said person or his family due to limited income, employment status, or any other relevant factor. Any such waiver so granted shall be in effect only during the period of time that said person is determined to be unable to pay the sex offender registry fee. The sex offender registry board shall establish procedures relative to the collection and waiver of such fee by regulation. Said sex offender registry fee shall be collected by the sex offender registry board and shall be transmitted to the treasurer for deposit into the General Fund. The sex offender registry board shall account for all such fees received and report said fees annually to the secretary of administration and finance and the house and senate committees on ways and means.

SECTION 13. Section 202 of said chapter 6, as appearing on the 2000 Official Edition, is hereby amended by adding the following paragraph:—

Notwithstanding any general or special law to the contrary, the office of children, youth and family services within the executive office of health and human services shall facilitate the implementation of this section, section 203 and the Children's Trust Fund but shall not exercise any supervision or control with respect to the board.

SECTION 14. Chapter 6A of the General Laws is amended by adding the following new section:—

Section 8B. (a) There shall be a commonwealth development coordinating council responsible for preparing a coordinated development policy for the commonwealth addressing housing, transportation, capital development, economic development and the preservation of environmental resources in the commonwealth.

(b) The council shall be comprised of a chair appointed by the governor, the secretaries of the executive offices of economic development, housing and community development, environmental affairs and transportation and construction, and the commissioners

of the department of capital asset management and maintenance, and of the division of energy resources, or their respective designees. The chair shall serve at the pleasure of the governor and shall serve as an ex-officio member of the governor's cabinet. The governor shall appoint the following advisory members: the chairman of the Massachusetts water resources authority, the chairman of the Massachusetts Bay transportation authority, the executive director of a regional transportation authority, three regional planning representatives, a municipal planning representative and a professional planner.

(c) The coordinated development policy shall:

- discourage wasteful use of land, water and energy resources;
- support revitalization and reinvestment in urban areas and older suburbs; encourage reuse and rehabilitation of existing infrastructure rather than the construction of new infrastructure in undeveloped areas;
- protect, to the maximum extent possible, environmentally sensitive lands, natural resources, wildlife habitats and cultural and historic landscapes;
- support a range of convenient and affordable transportation choices;
- protect economically productive natural areas including farmland and forests;
- provide an adequate supply of affordable housing for all income levels throughout each community, particularly households earning 50 per cent or less of the area median income, as defined by the federal department of housing and urban development;
- encourage a clear and transparent development approval process; encourage regional solutions and approaches to planning for transportation, housing development and water supply;
- require coordination among state agencies on sustainable growth efforts; encourage coordination and cooperation among all state agencies; and
- ensure that funding and construction activities by state agencies do not promote development that is inconsistent with state, regional and local sustainable development plans.

(d) The council shall:

- coordinate and make recommendations to capital planning done by agencies and political subdivisions of the commonwealth;
- resolve inconsistencies between agency plans and local or regional sustainable development plans;
- encourage state agencies to consider secondary growth impact in capital planning and to site facilities in areas with infrastructure rather than undeveloped areas;
- direct appropriate agencies to provide technical assistance as necessary to municipalities in their growth planning;
- develop comprehensive policies and principles regarding the disposition, reuse and development of surplus commonwealth property which shall maximize the development of affordable housing, particularly near mass transit facilities, minimize environmental impact and respect local and regional input;
- develop as part of the coordinated development plan, based on public hearing process, a long-term state-wide transportation plan for the commonwealth that includes planning for inter-modal and integrated transportation;
- develop, based on public hearing process, procedures to be used for transportation project selection in which the executive office of transportation and construction, the department of highways and any regional planning district organized pursuant to chapter 40B participate to the extent found to be appropriate by the council; and
- establish criteria for project selection to be used in the procedures developed pursuant to clause (7).

SECTION 15. Chapter 6A is hereby further amended by striking out section 16, as amended by section 6 of chapter 177 of the acts of 2001, and inserting in place thereof the following section:—

Section 16. The executive office of health and human services shall serve as the principal agency of the executive department for the following purposes: (a) developing, coordinating, administering and managing the health, welfare and human services operations, policies and programs; (b) supervising and managing the organization and conduct of the business affairs of the departments, commissions, offices, boards, divisions, institutions and other entities within the executive office to improve administrative efficiency and program effectiveness and to preserve fiscal resources; (c) developing and implementing effective policies, regulations and programs to assure the coordination and quality of services provided by the secretary and all of the departments, agencies, commissions, offices, boards, and divisions; (d) acting as the single state agency under section 1902(a)(5) of the Social Security Act authorized to supervise and administer the state programs under title XIX, for the programs under titles IV (A), IV (B), IV (E), XX and XXI of the Social Security Act, and for the programs under the Rehabilitation Act; and (e) maximizing federal financial participation for all agencies, departments, offices, divisions and commissions within the executive office.

The executive office of health and human services shall include: (1) the department of elder affairs under the direction of a secretary of elder affairs, who shall be appointed by the governor; (2) the office of health services, which shall include the department of public health, the department of mental health, the division of medical assistance and the Betsy Lehman center for patient safety and medical error reduction; (3) the office of children, youth and family services, which shall include the department of social services, the department of transitional assistance, the department of youth services, the office of child care services, the child abuse prevention board and the office for refugees and immigrants; (4) the office of disabilities and community services, which shall include the department of mental retardation, the Massachusetts rehabilitation commission, the Massachusetts commission for the blind, the Massachusetts commission for the deaf and hard of hearing and the Soldiers' Home in Massachusetts and the Soldiers' Home in Holyoke; (5) the department of veterans' services under the direction of the secretary of veterans' services, who shall be appointed by the governor; (6) the managed care oversight board; and (7) the health facilities appeals board.

The governor shall appoint a secretary of health and human services, who shall serve at the pleasure of the governor and shall act as the executive officer in all matters pertaining to the administration, management, operation, regulation, planning, fiscal and policy development functions and affairs of the departments, commissions, offices, boards, divisions and other agencies within the executive office.

The secretary shall have the authority to: (a) through the department of elder affairs and the division of medical assistance and other agencies within the executive office, as appropriate, operate and administer the programs of medical assistance and medical benefits under chapter 118E; provided, however, that the executive office under the direction of the secretary shall be the single state agency under section 1902(a)(5) of the Social Security Act, under Title XIX agency, for programs under titles IV(A), IV(B), IV(E), XX and XIX of the Social Security Act and for programs under the Rehabilitation Act; (b) establish certain rates of payment for health care services pursuant to section 2A of chapter 118G; (c) coordinate and supervise the administration of the executive office and its

agencies to promote economy and efficiency and improve service delivery; (d) establish uniform regional and area boundaries for the agencies within the executive office; (e) establish uniform contracting and payment procedures for the executive office and its agencies; (f) develop and implement a management information system for the management of fiscal, client and program data necessary for the efficient administration of the agencies within the executive office; (g) pursuant to chapter 30A, make, amend and repeal rules and regulations for the management and administration of the executive office and agencies within the executive office, including regarding the sharing of data, including personal data, between and among the executive office and its agencies, subject to appropriate protections for the confidentiality of client data; (h) execute all instruments necessary for carrying out the business of the executive office and its agencies; (i) acquire, own, hold, dispose of, lease and encumber property in the name of the executive office and its agencies; (j) enter into agreements and transactions with federal, state and municipal agencies and other public institutions and private individuals, partnerships, firms, corporations, associations and other entities on behalf of the executive office or its agencies; (k) charge and collect fees, rentals and other charges as may be reasonable and necessary for carrying out the business of the executive office and its agencies; (l) apply for and accept funds, including grants, bequests, gifts and contributions on behalf of the commonwealth in accordance with section 6 of chapter 29B; and (m) serve as the executive and administrative head of each office, department, division, bureau, section, agency and other administrative unit within the executive office, except as specifically provided by law. The secretary may delegate any of the foregoing powers to an officer having charge of a department, office, division or other administrative unit within the executive office.

The secretary of health and human services may appoint an assistant secretary for each of the following offices: health services; disabilities and community services; and children, youth and family services. The assistant secretaries shall serve at the pleasure of the secretary and shall perform such duties as the secretary shall determine. Notwithstanding any general or special law to the contrary, the secretary may appoint an individual to serve simultaneously as the commissioner of any agency within the executive office and as an assistant secretary for the offices of health services, disability and community services and children, youth and family services. If the secretary appoints an individual to serve simultaneously as a commissioner and assistant secretary, the individual shall only be compensated for service in 1 office.

The secretary may appoint, consistent with sections 3 and 7, whatever personnel he deems necessary or desirable for the effective performance of the executive office. Such personnel shall perform such duties as the secretary shall determine and serve at the pleasure of the secretary.

The secretary shall establish a performance measurement system for the agencies within the executive office, which shall establish program goals, measure program performance against those goals and report publicly on progress to improve the effectiveness of human services programs, service delivery and policy decision-making. The performance measurement system shall require each agency to develop a strategic plan for program activities and performance goals. The system shall require annual program performance reports which shall be submitted to the house and senate committees on ways and means and the joint committee on human services and elder affairs.

SECTION16. Section 16B of said chapter 6A, as appearing in the 2000 Official Edition, is hereby amended by adding the following sentence:— This section shall not apply to chapter 118E medical care and assistance, other than acute care services as defined by the secretary of health and human services, to eligible persons aged 65 and over as those services shall be administered by the secretary of elder affairs pursuant to section 1 of chapter 19A.

SECTION17. Section 1 of chapter 19A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding the following paragraph:—

The secretary shall administer chapter 118E relative to medical care and assistance to eligible persons age 65 and older except for acute care services as defined by the secretary of health and human services. The secretary shall be responsible for administering and coordinating a comprehensive system of long-term care benefits and services for elderly persons, including institutional, home-based and community-based care and services.

SECTION18. Said chapter 19A is hereby further amended by striking out section 4B, as so appearing, and inserting in place thereof the following section:—

Section 4B. The department shall manage the home care program established in section 4 with respect to clinical screening, service authorization activities and case management for Medicaid community-based long-term care made available to eligible elderly persons pursuant to chapter 118E and the regulations promulgated thereunder; provided, however, that the programs and activities authorized by this section shall be administered and coordinated in accordance with the single state agency requirement under 42 CFR Part 431 and other applicable requirements of Title XIX of the Social Security Act, or its successor title. The primary goal of the coordinated system of care shall be to assist elders in maintaining their residences in the community consistent with their clinical and psychosocial needs in the most cost-effective manner possible. As used in this section, the word “Medicaid” shall mean medical care and assistance provided to eligible persons pursuant to said chapter 118E and said Title XIX or its successor title, the term “executive office” shall mean the executive office of health and human services and the term “community long-term care” shall mean those Medicaid services determined by the department in consultation with the secretary of health and human services.

The coordinated system of care shall be administered by agencies under contract with the department that shall be known as aging services access points, hereinafter referred to as ASAPs. ASAPs shall be designated by the department and may be operated nonprofit agencies, home care providers as defined in clause (c) of the third paragraph of section 4, a combination of home care corporations acting jointly or by state agencies. Pursuant to the terms of those contracts, ASAPs shall coordinate services on behalf of Medicaid eligible elders; provided, however, that the department shall maintain exclusive responsibility for determining the financial or categorical eligibility of elders for Medicaid and the secretary of health and human services shall establish rates and methods of payment for Medicaid services delivered pursuant to this section. Administrative payments to ASAPs for Medicaid-funded functions including, but not limited to, screenings, assessments, case management and coordination of care shall be established by the department in consultation with the secretary of health and human services. Administrative payments for home care-funded services under said section 4 shall be established by the department in consultation with the secretary of health and human services. The department, in consultation with the secretary of health and human services, may develop a capitation system of payment for services

in which ASAPs shall be at financial risk for any Medicaid services authorized and purchased on behalf of an eligible person that exceed the amount of said capitation payments.

The department shall establish performance and outcome goals for Medicaid and home care-related functions of ASAPs and may establish such goals for any other responsibilities contracted to ASAPs for managing the coordinated system. Continuation of the contracts authorized by this section shall be dependent on the achievement of the Medicaid-related performance and outcome goals, as determined by the department.

ASAPs shall be responsible for: (1) providing information and referral services to elders; provided, however, that referrals for terminally ill elders shall include referrals to licensed and certified hospices for determination of eligibility, appropriateness and consumer interest in services; (2) conducting intake, comprehensive needs assessments, preadmission screening and clinical eligibility determinations for elders seeking institutional and community care services from Medicaid or the home care program, which in the case of hospice clients, shall adhere to Medicare and Medicaid conditions of participation pursuant to 42 C.F.R. 418 and 114.3 C.M.R. 43.00; (3) developing a comprehensive service plan based on the needs of an elder, provided, however, that a medical plan of care for an elder shall be developed by a licensed or certified health care provider; (4) arranging, coordinating, authorizing and purchasing community long-term care services called for in the comprehensive service plan; and (5) monitoring the outcomes of and making periodic adjustments to a service plan in consultation with service and health care providers. The establishment of a comprehensive service plan for an elder shall not establish an entitlement to services for that eligible person for services beyond that established by law or beyond the amounts appropriated therefor.

ASAP responsibilities for Medicaid-related functions shall be those established by the department. When renewing the annual terms of a contract the subsequent fiscal year, the department shall seek to promote continuity in the the coordinated system of care consistent with this section; provided, however, that substantive changes to the terms and conditions of an annual agreement, including changes to the functional responsibilities of ASAP's as defined in this section, shall be negotiated after the department's written findings that such changes are necessary as a result of changes in federally reimbursable services, rates of federal reimbursement rates or state fiscal demands or that the division is prepared to implement a more comprehensive, cost-effective and coordinated system of long-term care than that established in this section. The written finding required by this paragraph shall be submitted to the executive office, the secretary of administration and finance and the legislature's joint committee on human services and elderly affairs.

ASAPs shall not provide direct services except for case management; information and referral, and protective services as defined in regulations of the home care program established pursuant to 651 C.M.R. 3.00 et seq. and nutrition services established pursuant to 651 CMR 4.00 et seq. and the Older Americans Act, as amended, 42 U.S.C. 3021 et seq. Except for the direct services provided by ASAPs pursuant to this section, no ASAP shall have a direct or indirect financial ownership interest in an entity that provides institutional or community long-term care services on a compensated basis. The department may grant a waiver of the restrictions in this paragraph upon a finding that public necessity and convenience require such a waiver.

Overall management, administration and oversight activities related to the screening and authorization of community long-term care services and related case management services shall be the responsibility of the department. The department shall actively explore with interested parties programmatic options that would decrease the reliance of nursing facilities on Medicaid funding and shall promote increased residential and community long-term care program options for elders needing long-term care services. The department shall also explore future coordinated systems of service delivery options as identified in the coordinated aging, rehabilitation and disability services project.

SECTION 19. Said chapter 6A is hereby further amended by inserting after section 16 the following section:—

Section 16A½. (a) Notwithstanding any general or special law to the contrary, the secretary of the executive office of health and human services, in consultation with the secretary of administration and finance and the secretary of public safety, shall develop and implement a coordinated prescription drug procurement plan for all pharmacy benefit plans funded or subsidized, in whole or in part, by the commonwealth. The plan shall maximize cost savings, efficiencies, affordability and be designed to improve health outcomes, benefits and coverage in the pharmacy benefit plans.

(b) As part of the prescription drug procurement plan, the secretary shall contract with a third party nonprofit pharmacy benefits manager to provide pharmacy benefit management services and negotiate pharmaceutical discounts, rebates and other prescription related cost savings with pharmaceutical manufacturers on behalf of the commonwealth. The secretary shall contract with a nonprofit corporation or establish an inter-governmental service agreement for the provision of pharmacy benefit management services. The non-profit pharmacy benefits management corporation shall have experience in the administration of publicly-funded health benefit plans and shall be qualified to assess and manage the clinical efficacy and cost-effectiveness of the pharmacy benefit plans for the commonwealth. The non-profit pharmacy benefits management corporation shall be considered to possess a fiduciary responsibility to the pharmacy plans.

(c) The secretary shall ensure that the procurement plan employs clinically-based tools to maximize cost savings, efficiencies, affordability, and to improve health outcomes and access to pharmacy benefits and coverage and effectively management the pharmacy plans of the commonwealth. The tools shall include, but shall not be limited to:

(1) a statewide preferred drug list including negotiations with pharmaceutical companies for the payment of supplemental rebates or price discounts, in compliance with 42 U.S. C. section 1396r-8 ;

(2) clinically appropriate and effective disease management programs;

(3) a prescription drug discount program; and

(4) development of appropriate processes to ensure access to clinically appropriate prescription drug therapies and medically-necessary prescriptions.

(d) A contract in existence with any agency or pharmacy benefit plan shall not be terminated before its expiration date solely due to this section. A contract currently in existence with any agency or pharmacy benefit plan shall not be renewed or extended in a manner inconsistent with this section.

(e) For the purposes of subsection (c) of section 39 of chapter 19A, this section shall be considered a successor statute to section 62 of chapter 177 of the acts of 2001 but shall not be construed to have the effect of repealing chapter 62.

(f) The secretary shall submit, on April 15 of each year, a report detailing the coordinated prescription drug procurement plan to the house and senate clerks, the chairs of the house and senate committees on ways and means and the house and senate chairs of the joint committee on health care. The report shall include, but not be limited to, a review of the pharmacy benefit manager's designated formulary and an analysis of: (1) the actual discounts or rebates received as a result of the plan and other prescription related cost savings information for each prescription benefit plan funded in whole or in part by the commonwealth; (2) administrative costs relating to the prescription drug benefits in each plan; and (3) disease management or other programs implemented to improve health outcomes including drug therapy coordination and safe utilization of prescription drugs. The report shall also include recommendations for enhancing the benefits provided by each plan, saving costs, reducing inefficiencies and otherwise improving access and quality.

SECTION 20. Said chapter 6A is hereby further amended by inserting after section 16F the following 2 sections:—

Section 16G. The secretary of health and human services shall convene interagency children's services teams to establish effective means of collaboration among and between human service agencies and other entities, including but not limited to school districts, for the provision of supports and services to children and to determine which agency or agencies within the jurisdiction of the secretary shall provide or contract for appropriate services to a child in cases when disputes arise among agencies over the delivery of services to a child or when the services are not being provided to a child. For purposes of this section, "agency" shall mean any department, office, commission, board, institution or other agency of the commonwealth within the executive office of health and human services. The teams shall be created on a local or regional basis in accordance with regulations to be developed by the secretary.

The secretary or his designee shall chair the local or regional interagency children's services teams and preside over meetings. The interagency teams shall also include the commissioner or chief executive officer, or his designee, of the following agencies: the department of public health, the department of social services, the department of education, the department of transitional assistance, the department of mental retardation, the department of mental health, the commission on the deaf and hard of hearing, the Massachusetts rehabilitation commission, the commission for the blind or any other agency considered necessary by the secretary to ensure delivery of appropriate and needed services to a child.

The interagency teams shall review the cases on a local or regional basis; seek to identify the assessments and services that might be provided to a family; provide opportunities to receive testimony and evidence from the child, the child's family, the representative of the child or family or the representative or other employee of any agency; designate an agency to act as a lead agency and develop a plan for collaboration; if necessary, designate an agency to provide or contract for such services; and direct a designated agency to accept responsibility for the child and provide or contract for the services.

Students may be referred to the local interagency team by a school district, by any agency or department of the state, or by a parent, guardian, surrogate parent, other service provider of the child, educational advocate or legal advocate representing the child. Written consent of the parent or guardian shall be required before any sharing of information concerning a child and all federal and state laws and regulations regarding consent, confidentiality, and privilege shall apply. The parent, guardian, surrogate parent, educational advocate or legal advocate of a child shall be provided notice in their primary language of their rights pursuant to this section, including notice of any referral, the requirement for parental consent to the release of any information and records, and copies of all writings produced by the team; shall be part of the interagency team and shall be invited to interagency team meetings and participate actively in its work as it affects the child.

The interagency teams shall have full access to, and the agencies shall provide all information relevant to the cases if the appropriate consent is provided by parents or students, as may be established by applicable statutes or regulations. All confidential information shall be returned to its originating source upon completion of the team's work and shall not be retained by the interagency team or any member thereof and a member of the interagency team shall not disseminate confidential information to any other individual or entity. The interagency team shall keep a written record concerning the work of the interagency team with respect to each child referred to it, including information as to the services or placement sought, alternatives considered, conclusions reached, any further recommendations and the membership of the team. The parents, local school district and all relevant agencies shall be promptly informed of the results of the interagency team's work. A parent legal guardian, surrogate parent and educational advocate and legal advocate of a student shall have the right, upon request, to review or request copies of the written record maintained by the interagency team. The written record maintained by the interagency team shall be kept by the secretary, shall be kept confidential and shall not be disseminated by any team member.

Nothing herein shall be construed to alter individual education plan development processes, service provision or placement processes applicable to school districts or to alter existing due process rights and procedures under state or federal law. Further, the child and the parent, legal guardian, or educational surrogate of the child shall retain all applicable rights to consent or not to consent to any offered service that might be offered or recommended by the interagency team. Nothing herein shall be construed to require presentation of any issue to the interagency team before using any of the remedies under federal and state law including complaints to the department of education and hearings and mediations before the bureau of special education appeals.

If no collaborative plan is developed and no decision is agreed upon by a majority of the interagency team, the secretary shall designate and require an agency to provide appropriate and needed services to the child. If a designated agency fails to provide services to a child in a manner consistent with the decision of the team, the secretary shall review the matter. If the secretary finds that the decision of the interagency team is reasonable and within the jurisdiction of the designated agency, he shall direct the agency to provide services in accordance with the decision of the interagency team and shall take any other action consistent with state law to ensure that appropriate services are provided to the child.

The secretary shall promulgate regulations as to the operation of the interagency teams. These regulations shall mandate that the entire team process, including notification to all parties of the team's decision, shall be completed in no less than 30 working days. The regulations shall set forth an appeal pursuant to chapter 30A to a hearing officer appointed by the secretary.

For purposes of this section, "child" shall mean a person under the age of 18, or under the age of 22 if the person is disabled or has special needs.

The secretary shall issue an annual report summarizing the activities of the teams during the preceding fiscal year.

SECTION 21. Section 18 of said chapter 6A is hereby amended by inserting after the word "police", in line 7, as appearing in the 2000 Official Edition, the following words:— ; the office of commonwealth security; the department of forensic sciences.

SECTION 22. The first paragraph of section 18½ of said chapter 6A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— The secretary shall, subject to section 3, appoint 3 undersecretaries.

SECTION 23. Said section 18½ of said chapter 6A is hereby further amended by inserting after the third paragraph, as so appearing, the following paragraph:—

One undersecretary shall be the undersecretary of homeland security and shall oversee the functions and administration of the office of homeland security and shall be responsible for developing, coordinating, implementing and overseeing policies and programs relative to homeland security and emergency preparedness and administering state and federal grant programs to provide comprehensive initiatives relative to homeland security and emergency preparedness. Said undersecretary shall advise the secretary on all matters relative to anti-terrorism and emergency preparedness, develop and implement such policies and procedures as he deems necessary to carry out the mission of said office and coordinate with appropriate federal, state and local law enforcement and criminal justice agencies to develop cohesive strategies to ensure the security of the commonwealth and its residents.

SECTION 24. Section 4A of chapter 7 of the General Laws, as so appearing, is hereby amended by adding the following 4 paragraphs:—

In the event a new governmental mandate effective on or after July 1, 2003 is imposed upon a contractor providing a social services program, as defined in section 274 of chapter 110 of the acts of 1993, to a governmental unit, as defined in said section, and compliance with such governmental mandate has or will have a material adverse financial impact on the contractor, the governmental unit shall negotiate a contract amendment with the contractor to increase the maximum obligation amount or unit price to offset the material adverse financial impact of the new governmental mandate, provided that the contractor furnishes substantial evidence to the governmental unit of such material adverse financial impact along with a request to renegotiate based on a new governmental mandate.

For the purposes of this section, a “new governmental mandate” shall mean a statutory requirement, administrative rule, regulation, assessment, executive order, judicial order or other governmental requirement that was not in effect when the contract was originally entered into and directly or indirectly imposes an obligation upon the contractor to take any action or to refrain from taking any action.

For the purposes of this section, a “material adverse financial impact” shall mean: (a) an increase in the reasonable costs to the contractor in performing the contract of the lesser of (i) three percent (3%) of the maximum obligation amount or unit price of the contract, or (ii) five thousand dollars (\$5,000), in aggregate as a result of all such mandates in effect during the contract year; or (b) an action that affects the core purpose and primary intent of the contract.

Any contractor aggrieved by a decision of a governmental unit denying or failing to negotiate a contract amendment to remedy a material adverse impact of a new governmental mandate pursuant to the provisions of this section may appeal such adverse decision to the division of administrative law appeals in accordance with the section 4H of said chapter 7 for a hearing and decision de novo on all issues. A contractor’s request for contract amendment shall, for purposes of appeal, be deemed to have been denied if a determination is not received within 30 days of the governmental unit’s receipt of the request. A contractor or governmental unit may appeal an adverse decision of the division of administrative law appeals to the Superior Court, Suffolk Division, pursuant to chapter 30A.

SECTION 25. Section 53 of said chapter 7 is hereby amended by striking out, in line 16, as appearing in the 2000 Official Edition, the words “one hundred thousand dollars” and inserting in place thereof the following words:— \$200,000, but as of January 1 each year, the amount shall increase to reflect increases in the consumer price index calculated by the United States Bureau of Labor Statistics for all urban consumers nationally during the most recent 12-month period for which data are available,

SECTION 26. Section 54 of said chapter 7, as so appearing, is hereby amended by striking out, in lines 55 and 56, the words “in the most cost-efficient manner” and inserting in place thereof the following words:- according to agency accounting records in accordance with avoidable cost accounting standards.

SECTION 27. Paragraph (4) of Section 54 of chapter 7 of the General Laws, is hereby amended by striking out, in the first sentence, the words “according to agency accounting records”, inserted by Section 19 of this act, and inserting in place thereof the following:- in the most cost-efficient manner in accordance with avoidable cost accounting standards.

SECTION 28. Said paragraph (4) of said section 54 of said chapter 7 of the General Laws, as amended by this act, is hereby further amended by adding at the end thereof the following:- ; provided, however, that with respect to any proposed privatization contract whereby a non-governmental person or entity seeks to provide services currently provided by the employees of the Massachusetts Bay Transportation Authority, the comprehensive written estimate required by this paragraph shall be an estimate of the costs of regular authority providing the subject services in the most cost-efficient manner in accordance with avoidable cost accounting standards.

SECTION 29. Paragraph (a) of section 12 of chapter 7A of the General Laws, as so appearing, is hereby amended by striking out, in line 20, the word “operating” and inserting in place thereof the following word:— budgetary.

SECTION 30. Section 18 of chapter 7A of the General Laws, as amended by section 8 of chapter 184 of the acts of 2002, is hereby amended by inserting after the word “town”, in line 3, the following words:— , a housing authority,.

SECTION 31. Said section 18 of said chapter 7A, as so appearing, is hereby further amended by inserting after the word “town”, in lines 10, the second time it appears, 15, the second time it appears, 19, the second time it appears, 21, the second time it appears, 23 and 29, the second time it appears, and inserting in place thereof, in each instance, the following words:— the housing authority.

SECTION 32. Section 9 of chapter 8 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the words “of the commissioner of the department of the metropolitan district commission and said commissioner shall utilize the members of the metropolitan district commission”, in lines 17 to 19, and inserting in place thereof the following words:—of the director of the division of urban parks and recreation and said director shall utilize the members of the urban park.

SECTION 33. Section 10 of chapter 10 of the General Laws, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:—

The state treasurer shall prepare and submit to the house and senate committees on ways and means on or before the last day of August, November, February and May official cash flow projections for the current fiscal year and for the fiscal quarters beginning October 1, January 1, April 1 and July 1, respectively.

SECTION 34. Section 35D of said chapter 10 is hereby amended by striking out, in line 15, the words “, subject to appropriation.”

SECTION 35. Section 35G of said chapter 10 is hereby repealed.

SECTION 36. Section 35H of said chapter 10 is hereby repealed.

SECTION 37. Section 35L of said chapter 10 is hereby repealed.

SECTION 38. Section 35Q of said chapter 10 is hereby repealed.

SECTION 39. Section 35S of said chapter 10 is hereby repealed.

SECTION 40. The second sentence of subsection (a) of section 35V of said chapter 10, as appearing in section 7 of chapter 177 of the acts of 2001, is hereby amended by striking out the words “subsection (b)” and inserting in place thereof the following words:— subsections (b) and (c).

SECTION 41. Said section 35V of said chapter 10, as so appearing, is hereby further amended by striking out subsection (b) and inserting in place thereof the following 2 subsection:—

(b) Notwithstanding any general or special law to the contrary, the secretary of administration and finance, following a public hearing, shall increase the fees for obtaining and renewing a license, certificate, registration, permit or authority issued by a board within the division of professional licensure by an amount not to exceed 50 per cent, rounded to the nearest \$1, of the fees in effect as of July 1, 1996, to be expended by the director of professional licensure pursuant to subsection (a). The secretary of administration and finance may increase the fees of any board of registration established subsequent to July 1, 1996 based on the amount of the fee at the time of the board’s original promulgation by the secretary of administration and finance. The secretary of administration and finance shall promulgate regulations to effect the change in fees not later than 45 days after the fee increase.

(c) Notwithstanding any general or special law to the contrary, the secretary of administration and finance, following a public hearing, shall increase the fees for obtaining or renewing a license, certificate, registration, permit or authority issued by board and also fees for an appeal, variance request, approval, plan review, dual fuel review and any and all other ancillary fees charged for services with the division of professional licensure as set forth in 801 CMR 4.02 by an additional amount not to exceed 50 per cent, rounded to the nearest \$1, of the fees in effect on January 1, 2003 or at the time of the original promulgation of the board, whichever date is later. Amounts collected pursuant to this subsection shall become part of the fund established pursuant to subsection (a) and shall be expended by the director of professional licensure pursuant to said subsection (a).

SECTION 42. Section 35X of said chapter 10 inserted by section 10 of chapter 184 of the acts of 2002, is hereby amended by adding the following subsection:—

(c) Notwithstanding any general or special law to the contrary, the secretary of administration and finance, following a public hearing, shall increase the fee for obtaining or renewing a license, certificate, registration, permit or authority issued by a board within the department of public health, excluding the board of registration in medicine, by an additional amount not to exceed 50 per cent, rounded to the nearest \$1, of the fees in effect before the fee increases authorized pursuant to subsection (b); but the fees for any board that has not increased fees pursuant to said subsection (b) shall be increased by an amount not to exceed 100 per cent. All of this increase shall be deposited in the Quality in Health Professions Trust Fund.

SECTION 43.

A. Chapter 10 of the General Laws is hereby amended by striking out section 42, as appearing in the 2000 Official Edition, and inserting in place thereof the following 4 sections:—

Section 42. There shall be established on the books of the commonwealth a separate fund to be known as the State Election Campaign Fund, consisting of all revenues received under section 6C of chapter 62, and all other monies credited or transferred to the fund from any other fund or source pursuant to law.

The state treasurer shall deposit the fund in accordance with sections 34 and 34A of chapter 29 in such manner as will secure the highest interest rate available consistent with safety of the fund and with the requirement that all amounts on deposit be available for immediate withdrawal at any time after June 30 in any year in which elections are held for statewide elective office.

The state election campaign fund shall be expended only for the payment to eligible candidates, as determined under chapter 55C of amounts due on account of public financing on campaigns for statewide elective office and any unexpended balances shall be redeposited, as herein provided, pending the next year in which elections are held for statewide elective office.

Section 42A. On or before the eighth Tuesday before the primacy election in any year in which elections are held for statewide elective office, the balance of the state election campaign fund shall be determined by the comptroller as of June 30th of that year and the State Election Campaign Fund shall thereupon be divided by the comptroller into primary and state election accounts as follows:

(a) Fifty percent of the fund shall be allocated to the primary election account which shall be further subdivided into as many primary candidate accounts as there are candidates for statewide elective office who have been certified by the director of campaign and political finance as eligible for public financing pursuant to section 4 of chapter 55C. Each primary candidate account of a candidate for governor so certified shall first be credited with \$750,000. If the primary election account does not contain sufficient funds, this amount shall be proportionately reduced accordingly. Thereafter, funds remaining in the primary election account shall be proportionately allocated in equal amounts to the remaining primary candidate accounts.

(b) Fifty percent of the fund shall be allocated to the state election account. On or before the fourth Tuesday preceding the state election, the state election account shall be further subdivided into as many state election candidate accounts as there are candidates for statewide elective office who have been certified by the director of campaign and political finance as eligible for public financing pursuant to section 6 of chapter 55C; provided, however, that one state election candidate account only shall be established for each governor and lieutenant governor team of candidates. Each state election candidate account for a team of candidates for governor and lieutenant governor so certified shall first be credited with \$750,000. If the state election account does not contain sufficient funds, this amount shall be proportionately reduced accordingly. Thereafter, funds remaining in the state election account shall be proportionately allocated in equal amounts to the remaining state election candidate accounts. Section 42B. On or before the eighth, sixth, fourth and second Tuesday before the primary election in any year in which elections for statewide elective office are held the state treasurer shall without further appropriation distribute from each primary candidate account the amounts then certified by the director of campaign and political finance to be due to each eligible candidate. All distributions shall be made by direct deposit to the depository account designated by such candidates under section 19 of chapter 55. Immediately following the second Tuesday before the primary election all primary candidate accounts established under section 43 shall be closed and any balances remaining shall be allocated to the general election account and shall be available for distribution as herein provided.

On or before the fourth and second Tuesday before the state election in any year in which elections are held for statewide elective office, the state treasurer shall without further appropriation distribute from each state election candidate account the amounts then certified by the director of campaign and political finance to be due to each eligible candidate. All distributions shall be made by direct deposit to the depository accounts designated by such candidates under section 19 of chapter 55. Immediately following the second Tuesday before the state election all state election candidate accounts established under section 43 shall be closed and any balances remaining shall be redeposited as provided in section 41 pending the next year in which statewide elections are held.

Section 42C. The state auditor shall conduct a post-audit of all accounts and transactions involving the state election campaign fund for any year in which elections are held for statewide elective office and shall conduct such other special audits and post-audits as he may deem necessary. The state auditor shall publish a report of any post-audit required by this section on or before April 1 of the year following any year in which elections are held for statewide elective office. The comptroller shall conduct a post-audit of the accounts and transaction of any candidate for state auditor.

B. Subsection (b) of section 18C of chapter 55 of the General Laws, as so appearing, is hereby amended by striking out clause (1) and inserting in place thereof the following clause:—

(1) each candidate or candidate's committee that, during an election cycle, can reasonably expect to raise or spend more than \$50,000 for the offices of governor, lieutenant governor, state secretary, attorney general, state treasurer and receiver general, auditor or \$5,000 for the offices of councillor, state senator and state representative.

C. Chapter 55A of the General Laws is hereby repealed.

D. The General Laws are hereby further amended by inserting after chapter 55B the following chapter:—

CHAPTER 55C.

LIMITED PUBLIC FINANCING OF CAMPAIGNS  
FOR STATEWIDE ELECTIVE OFFICE.

Section 1. Unless a contrary intention clearly appears, the words and phrases used in this chapter shall have the following meanings:

“Director”, the director of campaign and political finance as established by chapter 55.

“Candidate”, any candidate as defined by chapter 55.

“Statewide elective office”, the office of governor, lieutenant governor, attorney general, secretary, treasurer and receiver general and auditor.

“Contribution”, any contribution as defined by chapter 55.

“Qualifying contribution”, any contribution made by an individual and deposited in a candidate's depository account as required by section nineteen of chapter 55 during the calendar year in which elections are held for statewide elective office or the next preceding calendar year except as follows: (a) no contribution shall be considered a qualifying contribution unless the name and address of the individual making the contribution can be determined from statements required to be filed with the director; (b) no contribution shall be considered a qualifying contribution to the extent that it exceeds \$250 or would exceed \$250 when added to any such contribution previously made by the same individual during the calendar year in which elections are held for statewide elective office or the next preceding calendar year.

The same contribution may be a qualifying contribution for both the primary election and the state election in a year in which elections are held for statewide elective office but no contribution shall remain a qualified contribution after the end of any such year.

Section 1A. (a) On or before the last day for filing that candidate's nomination papers with the state secretary pursuant to chapter 53, every candidate for statewide elective office shall file with the director a statement, in a form prescribed by the director, that the candidate does or does not agree:

(1) in the case of primary candidates, to abide by the following limits on expenditures for the following elective offices in the campaign for the state primary:

Governor \$1,500,000

Lieutenant Governor 625,000

Attorney General 625,000

Secretary 375,000

Treasurer and Receiver General 375,000

Auditor 375,000 ; and

(2) in the case of all candidates for statewide elective office, to abide by the following limits on expenditures for the following elective offices in the campaign for the state election:

Governor and Lieutenant Governor \$1,500,000



Attorney General 625,000  
Secretary 375,000  
Treasurer and Receiver General 375,000  
Auditor 375,000

The name of a candidate who fails to file any statement within the time required by this subsection shall not appear on the state primary ballot nor on the state election ballot, and the director shall inform the state secretary of any such failure.

(b) On or before the last day for filing withdrawals of nominations for the state primary, every primary candidate for statewide office who has not agreed to abide by the expenditure limit under subsection (a), and who is opposed in that primary by 1 or more candidates who have agreed to this limit, shall file with the director a statement, in a form prescribed by the director, of the maximum amount of expenditures to be made in his campaign for that primary. The name of a candidate who fails to file a statement required by this subsection within the time so required shall not appear on the state primary ballot, and the director shall inform the state secretary of any such failure. The state primary campaign expenditure limit agreed to under subsection (a) by any candidate shall be increased to the highest amount stated under this subsection by any opposing candidate who has not agreed to this limit.

(c) On or before the last day for filing withdrawals of nominations made at the state primary, every candidate for statewide office in the state election who has not agreed to abide by the expenditure limit under subsection (a), and who is opposed in that election by 1 or more candidates who have agreed to this limit, shall file with the director a statement, in a form prescribed by the director, of the maximum amount of expenditures to be made in his campaign for that primary. The name of a candidate who fails to file a statement required by this subsection within the time so required shall not appear on the state election ballot, and the director shall inform the state secretary of any such failure. The state election campaign expenditure limit agreed to under subsection (a) by any candidate shall be increased to the highest amount stated under this subsection by any opposing candidate who has not agreed to this limit.

(d) Any candidate appointed to fill a vacancy in a nomination for statewide elective office shall file the statement required by subsection (a) not later than the last day for filing the certificate of nomination to fill such vacancy. The time for opposing candidates to file the statements required by subsection (b) or (c), as the case may be, shall be extended accordingly.

(e) Any candidate who files a statement with the director under this section and who makes expenditures in excess of the limit established by this section, or in excess of the amount stated by said candidate pursuant to subsection (b) or (c), shall be punished by a fine of not more than the total of 2 times the amount of the expenditures in excess of said limit or said amount, as the case may be, in addition to the penalties provided by section 12.

Section 2. On or before the ninth Tuesday before the primary election in any year in which elections are held for statewide elective office the state secretary shall determine and certify to the director and the state treasurer the names and addresses of all candidates for statewide elective office who qualify for the primary ballot and are opposed, by one or more candidates who have qualified for the same ballot in the primary election. For purposes of this chapter any candidate for statewide elective office for whom certificates of nomination and nomination papers have been filed in apparent conformity with law shall be considered qualified for the ballot notwithstanding any objections thereto that may be filed and notwithstanding any vacancy that may occur following the filing of such certificates of nominations and nomination papers other than a vacancy caused by withdrawal of a candidate within the time allowed by law. On or before the fifth Tuesday before the state election in any such year the state secretary shall determine and certify to the director and to the state treasurer the names and addresses of all candidates for statewide elective office who qualify for the state election ballot and are opposed by one or more candidates who have qualified for the state election ballot. For purposes of this chapter any candidate for statewide elective office for whom certificates of nomination and nomination papers have been filed in apparent conformity with law shall be considered qualified for the ballot, as provided with respect to candidates for the primary election, and any, such candidates nominated at the primary election shall be considered qualified for the ballot notwithstanding any objections thereto that may be filed and notwithstanding any vacancy that may occur other than a vacancy caused by withdrawal of a candidate within the time allowed by law. The state secretary shall promptly determine and certify to the director and state treasurer the name and address of any candidate that no longer qualifies for the primary or state election ballot or no longer has opposition because of death or withdrawal or ineligibility for office or because objections to certificates of nomination and nomination papers have been sustained or because of a recount or for any other like reason.

Section 3. The director shall determine and certify to the state treasurer those candidates for statewide elective office that are eligible for limited public financing as provided in sections 4 and 6 and shall determine and certify to the state treasurer the amounts due to each eligible candidate as provided in sections 5 and 7.

The director shall prescribe and make available forms on which statements of qualifying contributions shall be filed by candidates, which statements shall contain the name and address of each individual making a contribution, the amount of the contribution and date of deposit, the cumulative total of all contributions made by that individual during the calendar year in which elections are held for statewide elective office and the next preceding calendar year and shall contain such other information and shall be organized in such a manner as the director may reasonably require to expedite the determinations required to be made by the director by this chapter.

The director shall notify candidates of any amounts determined by the director to be due from candidates under section nine and shall direct that such amounts be paid to the state election campaign fund. On or before January 30 of any year next following a year in which elections are held for statewide elective office the director shall prepare and submit a report relating to the matters entrusted to him under this chapter to the clerk of the senate and to the commission established by section 3 of chapter 55 and shall make copies of such report available to any person upon payment of the reasonable cost of copying or reproduction.

Section 4. Any candidate for statewide elective office certified by the state secretary under section 2 as qualifying for the ballot and having opposition in primary election shall be eligible to receive limited public financing of his primary election campaign, to the extent provided by section 5, on determination and certification by the director that the candidate (a) has filed a request for public financing with the director together with the bond required by section 8; (b) has filed with the director a statement under subsection (a) of section 1A agreeing to abide by the expenditure limits provided thereby; and (c) has received qualifying contributions as defined by section 1 in at least the following minimum amounts for the following statewide elective offices:

Governor \$75,000  
Lieutenant Governor 15,000  
Attorney General 37,500  
Secretary 15,000  
Treasurer and Receiver General 15,000  
Auditor 15,000

Only amounts appearing in statements of qualifying contributions filed with the director, in such form as he shall prescribe, shall be considered in determining whether any such minimum amount has been met. Determination and certification of the eligibility of candidates shall be made by the director on the eighth Tuesday before the primary and shall be based solely upon information contained in such statements as have been filed on or before the Friday next preceding said eighth Tuesday.

Section 5. Any candidate eligible to receive limited public financing of his primary election campaign shall, on determination and certification by the director, be entitled to an amount equal to \$1 for each one dollar of qualifying contributions as defined by section 1, subject to the following limitations: (a) no candidate shall be entitled to receive any amount in excess of the balance then remaining in the primary candidate account established for that candidate under section 42 of chapter 10; (b) nor shall any candidate be entitled to receive any amount in excess of the following maximum amounts for the following statewide elective offices:

|                                |           |
|--------------------------------|-----------|
| Governor                       | \$750,000 |
| Lieutenant Governor            | 312,500   |
| Attorney General               | 312,500   |
| Secretary                      | 187,500   |
| Treasurer and Receiver General | 187,500   |
| Auditor                        | 187,500   |

Only amounts appearing in statements of qualifying contributions filed with the director, in such form as he shall prescribe, shall be considered in determining amounts to which candidates are entitled. Determinations and certifications of the amounts to which eligible candidates are entitled shall be made by the director on or before the eighth, sixth, fourth and second Tuesday before the primary election and shall be based solely upon information contained in such statements as have been filed prior to such dates.

Section 6. Any candidate for statewide elective office certified by the state secretary under section two as qualifying for the ballot and having opposition in the state election shall be eligible to receive limited public financing of his state election campaign, to the extent provided by section 7, on determination and certification by the director that the candidate (a) has filed a request for public financing with the director together with the bond required by section 8; (b) has filed with the director a statement under subsection (a) of section 1A agreeing to abide by the expenditure limits provided thereby; and (c) has received qualifying contributions as defined by section 1 in at least the following minimum amounts for the following statewide elective offices:

|                                  |           |
|----------------------------------|-----------|
| Governor and Lieutenant Governor | \$125,000 |
| Attorney General                 | 62,500    |
| Secretary                        | 25,000    |
| Treasurer and Receiver General   | 25,000    |
| Auditor                          | 25,000    |

Only amounts appearing in statements of qualifying contributions filed with the director, in such form as he shall prescribe, shall be considered in determining whether any such minimum amount has been met. Determination and certification of the eligibility of candidates shall be made by the director on the fourth Tuesday before the state election and shall be based solely upon information contained in such statements as have been filed on or before the Friday next preceding said fourth Tuesday.

The fact that a qualifying contribution has previously been considered in determining eligibility for, or the extent of, public financing of a candidate's primary election campaign shall not prevent consideration of the same contribution in determining eligibility for public financing of such candidate's state election campaign.

Section 7. Any candidate eligible to receive limited public financing of his state election campaign shall, on determination and certification by the director, be entitled to an amount equal to \$1 for each one dollar of qualifying contributions as defined by section one subject to section nine and subject to the following limitations: (a) no candidate shall be entitled to receive any amount in excess of the balance then remaining in the state election candidate account established for that candidate under section 43 of chapter 10; (b) nor shall any candidate be entitled to receive any amount in excess of the following maximum amounts for the following statewide elective offices:

|                                  |           |
|----------------------------------|-----------|
| Governor and Lieutenant Governor | \$750,000 |
| Attorney General                 | 312,500   |
| Secretary                        | 187,500   |
| Treasurer and Receiver General   | 187,500   |
| Auditor                          | 187,500   |

Only amounts appearing in statements of qualifying contributions filed with the director, in such form as he shall prescribe, shall be considered in determining amounts to which candidates are entitled. Determinations and certifications of the amounts to which eligible candidates are entitled shall be made by the director on or before the fourth and second Tuesday before the state election and shall be based solely upon information contained in such statements as have been filed prior to such dates.

The fact that a qualifying contribution has previously been considered in determining eligibility for, or the extent of, public financing of a candidate's primary election campaign shall not prevent consideration of the same contribution in determining the extent of public financing of such candidate's state election campaign.

Section 8. No candidate shall be eligible to receive public financing under this chapter unless and until the candidate deposits with the director a bond for the faithful compliance by such candidate and any political committee organized on his behalf with the provisions of this chapter. Such bond shall be in a form approved by the director, shall be signed by such candidate and the chairman and treasurer of any such committee, shall run to the commonwealth, shall be in force during the year in which elections for statewide elective office are held and for the following calendar year. The bond deposited for the purpose of receiving public financing for the primary election campaign must be for the amount which the comptroller has credited to the account established on behalf of that candidate for the primary election campaign. The bond deposited for the purpose of receiving public financing for the state election campaign must be for the amount which the comptroller has credited to the account established on behalf of that candidate for the state election campaign, but in the case of a candidate for governor, the bond on behalf of said candidate shall be in the amount which the comptroller has credited to the account established on behalf of that governor and lieutenant governor team.

On determination by the director that a candidate has failed to make the payments to the state treasurer required by section 9 the director may request the attorney general to bring an action in the name of the state treasurer upon the bond of such candidate and his political committee and may recover for the benefit of the state election campaign fund, up to the sum of such bond, any such payments so required. Any such action shall be in addition to remedies otherwise available by law and no action on any such bond shall preclude the director from bringing such other civil or criminal proceedings as may otherwise be provided by law.

Section 9. Within two weeks following any primary or state election for statewide elective office any candidate who has received public financing under this chapter shall file a statement with the director showing the balance remaining in the candidate's depository account as of the primary or state election less any reserve necessary to cover debts incurred to defray campaign expenditures incurred during such primary or state election. Except as provided in this section, any candidate having a surplus balance following any such primary or state election shall thereupon pay to the state treasurer for deposit to the State Election Campaign Fund an amount determined by multiplying such surplus balance by a fraction the numerator of which is the total amount of public financing received on account of such primary or state election campaign and the denominator of which is the sum of such public financing received and all contributions received by such candidate. No candidate having a surplus balance following the primary election shall be required to make any payment on account of such surplus if such candidate is certified by the state secretary under section 2 as qualifying for the ballot and having opposition in the state election and is certified by the director of campaign and political finance as eligible for public financing for the state election within 3 weeks following such primary election. In determining and certifying the amount to which any such candidate is entitled under section 7, the director shall reduce the amount that would otherwise be determined under that section by an amount equal to the amount that such candidate would be required to pay to the state treasurer under this section but for this sentence.

If the director determines that any portion of the payments made to an eligible candidate under this chapter was in excess of the aggregate amount of the payments to which the candidate was entitled he shall so notify the candidate and he shall thereupon pay to the state treasurer an amount equal to the excess amount.

If the director determines that any portion of the payments made to a candidate under this chapter for use in his primary election campaign or his state election campaign was used for any purpose other than to defray campaign expenditures in that campaign, or to repay loans the proceeds of which were used to defray campaign expenditures in that campaign, the director shall so notify the candidate and he shall thereupon pay an amount equal to the full amount so used to the state treasurer without regard to the source of the funds so used.

Any candidate who fails to pay an amount determined by the director to be due within 10 days of notice thereof shall be subject to a penalty of \$50 per day for every day that such amount remains unpaid.

Section 10. No candidate shall be required to accept public financing nor shall any candidate otherwise eligible for public financing be denied such financing solely because an opposing candidate declines to accept such financing.

Section 11. The director shall promulgate such rules and regulations as are necessary to effectuate the purposes of this chapter.

The director shall have the same power and authority to investigate the legality, validity, completeness and accuracy of all reports and actions required to be filed and taken by candidates pursuant to this chapter as is provided by section 3 of chapter 55 pertaining to campaign contributions and expenditures.

Section 12. Violation by any person of any provision of this chapter shall, in addition to any civil liabilities established by this chapter, be punished by imprisonment for not more than 1 year or by a fine of not more than on \$1,000, or both.

E. Section 6C of chapter 62 of the General Laws, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "Massachusetts Clean Elections" and inserting in place thereof the following words:— State Election Campaign.

F. Any funds in the Massachusetts Clean Elections Fund shall on the effective date of this act be transferred to the State Election Campaign Fund, established by section 42 of chapter 10 of the General Laws. Any funds in the Massachusetts Clean Elections Judgment Fund, established by section 174 of chapter 184 of the acts of 2002, shall be transferred to the General Fund.

SECTION 44. Section 47 of said chapter 10, as appearing in the 2000 Official Edition, is hereby amended by inserting after the seventh sentence the following sentence:— The state treasurer and state auditor shall be equally responsible for all administrative costs associated with the board.

SECTION 45. Section 49 of said chapter 10 is hereby repealed.

SECTION 46. Section 51 of said chapter 10 is hereby repealed.

SECTION 47. Section 59 of chapter 10 of the General Laws is amended by striking out the fourth and fifth sentences thereof and inserting in place thereof the following sentences:- Funds collected pursuant to said section 24 shall be expended without further appropriation for the purpose of developing and maintaining nonresidential rehabilitation services for head injured persons in such manner as the commissioner of rehabilitation may direct. Funds collected pursuant to said section 20 shall be expended without further appropriation for the purpose of developing and maintaining residential and nonresidential rehabilitation services for head injured persons in such manner as the commissioner of rehabilitation may direct. In order to ensure that said services established by the commissioner continue without interruption, the comptroller may certify for payment amounts in anticipation of revenues collected for the corresponding quarter during the previous fiscal year.

SECTION 48. Said chapter 10 is hereby further amended by adding the following 3 sections:—

Section 70. There shall be a commission to be known as the alcoholic beverages control commission, to consist of a commissioner and 2 associate commissioners appointed by the treasurer. Not more than 2 members shall be members of the same political party. The commissioner shall serve a term coterminous with the treasurer. The 2 associate commissioners serving on the alcoholic beverages control commission on May 1, 2003 shall remain the associate commissioners until January 2, 2005. The 2 associate commissioners shall thereafter be appointed by the treasurer for terms of 4 years. The commissioner shall serve as chairman and shall devote his full time during business hours to his official duties. The positions of commissioner and associate commissioner shall be classified in accordance with section 45 of chapter 30 and their salaries shall be determined in accordance with section 46C of said chapter 30. Any vacancy may be filled in like manner for the remainder of the unexpired term. The treasurer may remove any member for neglect of duty, misconduct or malfeasance in office, after providing the member with a written statement of the charges and an opportunity to be heard. Two members shall constitute a quorum for the purpose of conducting the business of the commission. A vacancy shall not impair the right of the remaining members to exercise the powers of the commission.

Section 71. The commission shall have general supervision of the conduct of the business of manufacturing, importing, exporting, storing, transporting and selling alcoholic beverages as defined in section 1 of chapter 138, and also of the quality, purity and alcoholic content thereof.

The commission shall submit to the governor, the treasurer and to the general court, as soon as possible after the end of each state fiscal year, a full report of its actions and of the conduct and condition of traffic in alcoholic beverages during such year, together with recommendations for such legislation as it deems necessary or desirable for the better regulation and control of such traffic and for the promotion of temperance in the use of such beverages. The members shall receive their necessary traveling and other expenses incurred while in the performance of their official duties.

Section 72. The commission may appoint and remove a secretary. It may expend for such investigators, clerical and other assistants as may be necessary for the performance of its duties such amounts as may be appropriated and the employees shall retain all collective bargaining and other rights previously held. The commissioner may appoint a chief investigator and other investigators, who shall be exempt from chapter 31, for the purpose of enforcing or causing to be enforced the penalties provided by law against every person who is guilty of a violation of chapter 138 of which they can obtain reasonable proof, and shall make all necessary and appropriate investigations for that purpose. Each person appointed as an investigator shall complete a basic reserve police officer training course through the criminal justice training council and shall attend a basic training course conducted by the commission. All investigators shall attend an annual in-service training course pursuant to this section. Each member of the commission, and each of its employees having access to moneys received by it, shall give to the treasurer a bond for the faithful performance of his duties in a penal sum and with sureties approved by the treasurer.

SECTION 49. Section 7 of said chapter 15A, as so appearing, is hereby amended by inserting at the end thereof the following paragraph:-

The board of trustees of a state or community college with the potential to expand its mission, profile, and orientation to a more regional or national focus may submit to the board of higher education, for its approval, a five-year plan embracing an entrepreneurial model which leverages that potential in order to achieve higher levels of excellence. Such plans shall include, but not be limited to, budget and enrollment projections for each year, projections for total student charges for each year, projections for in-state and out-of-state enrollments for each year, and plans to insure continuing access to the institution by residents of the commonwealth and affirmative action policies and programs that affirm the need for and a commitment to maintaining and increasing access for economically disadvantaged and minority students. Said proposal, upon its receipt by the board of higher education, shall be transmitted to the secretary of administration and finance, the chairs of the house and senate committees on ways and means, and the house and senate chairs of the joint committee on education, arts, and humanities. The board shall, with ninety days of the submission of the plan, take a vote to approve said plan. Approval shall require a two-thirds vote. If the board proposes amendments to the plan, and said amendments receive a two-thirds vote of approval, said amendments shall be returned to the institution's board of trustees. If the board of trustees approves said amendments, the plan shall be considered adopted. If the institution's board of trustees rejects the proposed changes, it may submit a redrafted plan, which will be treated as a new plan under the provisions of this section.

SECTION 50. The first paragraph of said section 9 of chapter 15A, as so appearing, is hereby further amended by adding at the end thereof the following 4 clauses:-

(dd) to develop funding formulas for state and community colleges pursuant to section 15B of this chapter; (ee) to develop a standardized form for reporting institutional expenditures, and for the submission of institutional spending plans pursuant to subparagraph (m) of the first paragraph of section 2 of this act; (ff) to approve the expansion of campus missions to embrace specialized missions, expanded regional or national outreach, or a more entrepreneurial model of service delivery pursuant to section and subparagraph (p) of the first paragraph of section 22 of this chapter; (gg) develop a system to track students who transfer out of public institutions of higher education in order to improve data on what degrees, if any, those students earn from other institutions of higher education.

SECTION 51. Said section 9 of said chapter 15A is hereby further amended by inserting after the word "account", in line 24, as so appearing, the following words:— the analysis mandated in clause (c).

SECTION 52. Said section 9 of said chapter 15A is hereby further amended by inserting after the word "examinations.", in line 99, as so appearing, the following sentence:— In order to facilitate the timely use of such data, the board shall, in consultation with the public institutions of higher education, establish a schedule for submission of the data.

SECTION 53. Section 15B of said chapter 15A, as appearing in the 2000 Official Edition, is hereby amended by inserting after the second paragraph, the following new paragraph:—

Boards of trustees in each segment of the higher education system shall prepare their budget request in accordance with funding formulas. The board of higher education shall develop the formulas for the institutions within the state and community college segments in consultation with the boards of trustees. The university trustees shall develop funding formulas for the university campuses in consultation with the campus administrations and the board of higher education. All funding formulas shall be periodically reviewed and revised as needed.

SECTION 54. Said section 15B of said chapter 15A, as so appearing, is hereby further amended by striking out, in lines 23 to 25, inclusive, the words "attaching whatever comments and recommendations it may desire or deem necessary. Said comments and recommendations shall be consistent with the aforementioned funding formulas, statewide needs and the adopted institutional and system long range plans." and inserting in place thereof the following words:— and shall attach comments and recommendations for use by the secretary of administration and finance, the house and senate committees on ways and means and the joint committee on education, arts and humanities. In the case of the university, it shall be the responsibility of the trustees to submit comments and recommendations regarding the budget requests of individual campuses within the university system to the board of higher education. In the case of any institution, or the university, having failed to submit data according to the schedule established under clause (s) of the first paragraph of section 9, the board of higher education may withhold transmittal of the budget request from that board of trustees to the secretary and committees. The comments and recommendations attached by the board of higher education for each state

and community college and by the board of trustees of the university for each university campus, shall be consistent with the funding formulas, statewide needs, performance measurement standards, as well as the mission statements and 5-year plans for individual campuses and the public higher education system as a whole. They shall also reflect analysis by the respective boards for each campus regarding progress made by the campuses in fulfilling strategic plans including, but not limited to, significant achievements and progress in addressing any previously identified deficiencies. The comments and recommendations shall be made available to the individual institutions and campuses before submission to the secretary and legislative committees with sufficient time allowed to provide opportunity for comment and response by those institutions and campuses.

SECTION 55. Section 22 of said chapter 15A, as so appearing, is hereby amended by striking out, in lines 41 to 43, inclusive, the words “on or before the first Wednesday of December in each year; (m) submit financial data and an annual institutional spending plan to the council for review” and inserting in place thereof the following words:- to the board of higher education according to a schedule determined by the board in consultation with the board of trustees; (m) submit financial data and other data as required by the board of higher education for the careful and responsible discharge of its purposes, functions, and duties. The data shall be reported annually to the board of higher education according to a schedule determined by the board of higher education in consultation with the board of trustees. The board of trustees shall also submit an annual institutional spending plan to the council for review, comment, and transmittal to the secretary for administration and finance, the house and senate committees on ways and means and the joint committee on education, arts and humanities. Spending plans shall be reported using a standardized format developed by the board of higher education in conjunction with the institutional boards of trustees’ in a manner to allow comparison of similar costs between the various institutions of the commonwealth.

SECTION 56. Said chapter 15A is hereby further amended by inserting after section 40 the following section:—

Section 41. The board of higher education may establish fees to be charged to independent institutions of higher education which seek approval of articles of organization, articles of amendment, or foreign corporation certificates pursuant to sections 30, 30A, 31, and 31A of chapter 69 and which transfer records to the board of higher education pursuant to section 31B of said chapter 69. The revenue received from the collection of the fees shall be retained by the board of higher education in a revolving trust fund and shall be expended solely for carrying out said sections. Fees shall not be greater than the costs incurred by the board of higher education in implementing said sections. The board of higher education shall report annually to the house and senate committee on ways and means the amount of funds collected and any expenditures made from the funds.

SECTION 57. Chapter 16 of the General Laws is hereby amended by striking out section 19, as appearing in the 2000 Official Edition, and inserting in place thereof the following section:—

Section 19. The department may dispose of solid wastes, from whatever source, in any manner and at any site which is determined by the department to meet the siting criteria established under section 150A½ of chapter 111. The department may purchase, lease, acquire, receive by gift or take by eminent domain under chapter 79 any land, structures, facilities and easements necessary for solid waste disposal. As used in this section, the term “solid waste disposal” shall include storage or treatment of residual waste. To carry out this section, the department may contract with any person, firm, corporation, or body politic to plan, design, manage, construct, maintain or operate solid waste disposal facilities and to otherwise implement this section, and may accept any gifts or grants of money or property, whether real or personal, from any source, including but not limited to the United States or its agencies relative to the disposal of solid waste. The department may contract with users, public and private, including agencies of the commonwealth and its political subdivisions, to dispose of solid waste. The department may lease any land acquired under this section for solid waste disposal to any person, firm or corporation for the purpose of constructing, operating and maintaining a privately owned solid waste processing disposal facility or related facility, including facilities related to the processing, marketing or manufacture of materials recovered from solid waste. The department, on a continuing basis, shall review and make recommendations on the manner of operation and adequacy from an environmental quality standpoint of any solid waste disposal facility planned, established or operated under section 18 to 24, inclusive, by the secretary, and subject to appropriation such recommendations shall be implemented by the secretary. Any land acquired under this section may be disposed of by the commonwealth pursuant to chapter 7 upon termination of a solid waste disposal facility or completion of use of a site, with the concurrence of the department in the best interests of the commonwealth and for a use compatible with local zoning by-laws or ordinances; provided, however, that in no event shall such land be so disposed of unless a written offer is made to the city or town wherein such land lies for an amount of money not less than the principal amount remaining to be paid on bonds issued to meet the capital outlay expenditures relative to such land and such offer is not accepted within 2 months after being made or is refused by the mayor of the city or the board of selectmen of the town wherein such land lies.

The department shall not exercise its eminent domain authority as authorized herein with respect to sites for residual waste treatment, processing or disposal until all permits, licenses and approvals of the city or town wherein the site lies have been granted, a siting agreement has been established pursuant to sections 12 and 13 of chapter 21D, and the approval of said exercise of eminent domain authority has been obtained by a majority vote of the city council, board of aldermen, or board of selectmen of said city or town.

SECTION 58. Section 23 of said chapter 16 is hereby repealed.

SECTION 59. The last paragraph of section 5G of chapter 18 of the General Laws, as appearing in the 2000 Official Edition, is hereby further amended by adding the following sentence:— Notwithstanding any general or special law or rule or regulation to the contrary, an insurer doing business in the commonwealth shall provide information requested by the department of transitional assistance and the division of medical assistance for use by the agencies for the purpose of recovering public assistance benefits under this section and section 22 of chapter 118E.

SECTION 60. Sections 10, 11, 12, 13, 14, 15, 16, 17 and 18 of chapter 20 of the General Laws are hereby repealed.

SECTION 61. Sections 20 and 21 of said chapter 20 are hereby repealed.

SECTION 62. Said chapter 20 is hereby amended by adding the following 4 sections:—

Section 23. The secretary of environmental affairs shall establish a program to assist the commonwealth in the acquisition of agricultural preservation restrictions as defined in section 31 of chapter 184, for land actively devoted to agricultural or horticultural uses as defined in sections 1 to 5, inclusive, of chapter 61A. The commissioner of agricultural resources may from funds appropriated to carry out this section, or received from other sources, pay any agricultural land owner for a project submitted by a city or town and approved by the agricultural lands preservation committee established by section 24 such amount as is determined by the agricultural lands preservation committee to be equitable in consideration of anticipated benefits from such project but not to exceed the difference between the fair market value of such land and the fair market value of such land restricted for agricultural purposes pursuant to this section. Title to agricultural preservation restrictions shall be held in the name of the commonwealth; provided, however, that a city or town in which such land is located which provides assistance satisfactory to the agricultural lands preservation committee, including but not limited to providing of funds or portions thereof toward the purchase of such restriction, the providing of legal services and the enforcement of the preservation restriction, shall hold title to such land jointly with the commonwealth. Projects shall be administered by conservation commissions in cities and towns in which such commissions have been established, or in a city, by the city council or its delegated agency subject to the provisions of the city charter, or in a town, by the board of selectmen or its delegated agency. The commissioner, subject to the approval of the secretary, shall establish procedures for management of such program.

Notwithstanding any general or special law to the contrary, the department of agricultural resources, with the approval of the co-holder, if any, in its sole discretion, may grant to any owner of land subject to an agricultural preservation restriction held by the commonwealth a nonassignable special permit allowing nonagricultural activities to occur on the agricultural preservation restriction land, provided: (a) the land is being actively utilized for full-time commercial agriculture; (b) the permit is for a maximum of 5 years duration, which may, at the discretion of the department, be renewed; and (c) the agricultural lands preservation committee finds that the grant of a special permit will not defeat or derogate from the intent and purposes of retaining the land for agricultural use and preserving the natural agricultural resources of the commonwealth and that the agricultural preservation restriction owner meets all requirements pertaining to special permits contained in the agricultural preservation restriction agreement form presently utilized by the commonwealth at the time of application for the special permit.

Section 24. There shall be an agricultural lands preservation committee in the department of agricultural resources, the members of which shall be the commissioner of agricultural resources, who shall be chairman, the secretary of environmental affairs, the director of housing and community development, the director of the office of state planning, the chairman of the board of agricultural resources or their respective designees, and 4 members appointed by the governor, 2 of whom shall be owners and operators of farms within the commonwealth. Members appointed by the governor shall receive \$50 for each day or portion thereof spent in discharge of their official duties not to exceed \$600 annually and shall be reimbursed for the necessary expenses incurred. The dean of the college of food and natural resources of the University of Massachusetts and the state conservationist of the United States Department of Agriculture Soil Conservation Service, or their respective designees, shall serve as nonvoting members. The committee shall evaluate and accept or reject projects submitted by cities and towns. In so evaluating, the committee shall consider at a minimum the following:

- (1) the suitability of land as to soil classification and other criteria for agricultural use;
- (2) the fair market value of such land and the fair market value of such land when used for agricultural purposes as determined by independent appraisals; and
- (3) the degree to which the acquisition would serve to preserve the agricultural potential of the commonwealth.

The commissioner of agricultural resources may establish such rules and regulations as may be deemed necessary to carry out the purposes of this section.

Each member of the committee appointed by the governor shall be appointed for a term of 4 years, and until his successor is qualified. Of the first such members appointed, 1 shall serve for a term of 1 year; 1 shall serve for a term of 2 years; 1 shall serve for a term of 3 years; 1 shall serve for a term of 4 years. A person appointed to fill a vacancy shall serve for the unexpired term of such vacancy. Any member may be eligible for reappointment.

Section 25. The agricultural lands preservation committee shall prepare an annual report. The report shall include the number and geographic distribution of applications accepted and rejected, the acreage and costs of purchases, and such other information as will enable the program to be evaluated.

Section 26. Land under agricultural preservation restrictions, while actively devoted to agricultural, horticultural or agricultural and horticultural use as defined in sections 1 to 5, inclusive, of chapter 61A, shall be assessed for general property tax purposes at values no greater than those determined by the methods and provisions of section 10 of said chapter 61A.

SECTION 63. Section 1 of chapter 21 of the General Laws, as appearing in the 2000 Official Edition is hereby amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:—

The department of conservation and recreation shall consist of a division of urban parks and recreation, a division of state parks and recreation and a division of water supply protection. Each division shall be under the administrative supervision of a director. The division of urban parks and recreation shall have control over the state parks, forests, parkways, waterways, rinks, pools, beaches and other recreational lands and facilities within the geographic area defined in section 33 of chapter 92. The division of state parks and recreation shall have control over the state parks, forests, parkways, waterways, rinks, pools, beaches and other recreational lands and facilities outside of the geographic area defined in section 33 of chapter 92.

SECTION 64. Said chapter 21 is hereby amended by striking out section 2, as so appearing, and inserting in place thereof the following section:—

Section 2. The department shall be under the control of a stewardship council, which shall consist of 13 persons to be appointed by the governor in the manner provided in section 2A for terms of 7 years.

SECTION 65. Section 2A of said chapter 21, as so appearing, is hereby amended by striking out the first paragraph and inserting in place thereof the following words:—

Section 2A. The governor shall appoint 11 members of the stewardship council with due regard to geographical distribution, provided that 5 members shall reside within the urban parks district defined in section 33 of chapter 92, at least one of whom shall be a resident of the city of Boston, and one member shall be a resident of Berkshire county. Of these members, no more than one may come from the same county except as provided herein.

SECTION 66. Said section 2A of said chapter 21, as so appearing, is hereby further amended by striking out, in lines 9 and 10, the words “and the Trustees of Reservations, to nominate three candidates for the seventh member of the board” and inserting in place thereof the following words:— the Trust for Public Land, the Environmental League of Massachusetts and the Trustees of Reservations, to nominate 6 candidates for the remaining 2 members of the council.

SECTION 67. Said section 2A of said chapter 21, as so appearing, is hereby further amended by striking out, in line 12, the word “three” and inserting in place thereof the following figure:— 6.

SECTION 68. Said section 2A of said chapter 21, as so appearing, is hereby further amended by striking out, in line 13, the words “the seventh member of the board” and inserting in place thereof the following words: — the remaining 2 members of the council.

SECTION 69. Said section 2A of chapter 21, as so appearing, is hereby further amended by striking out, in lines 14 and 15, the words “, which member shall be appointed without regard to the county membership restrictions outlined above”.

SECTION 70. Section 2B of said chapter 21, as so appearing, is hereby amended by striking out, in line 1, and in lines 20 and 21, the words “board of environmental management” and inserting in place thereof, in each instance, the following words:—stewardship council.

SECTION 71. Said section 2B of said chapter 21, as so appearing, is hereby further amended by striking out, in lines 23 and 24, the words “environmental management” and inserting in place thereof the following words:— conservation and recreation.

SECTION 72. Said section 2B of said chapter 21, as so appearing, is hereby further amended by striking out the last paragraph.

SECTION 73. Section 2C of said chapter 21, as so appearing, is hereby amended by striking out, in line 1, and in lines 9 and 10, the words “board of environmental management” and inserting in place thereof, in each instance, the following words:— stewardship council.

SECTION 74. Said section 2C of said chapter 21, as so appearing, is hereby further amended by striking out, in line 5, the word “Three” and inserting in place thereof the following word:—Six.

SECTION 75. Said section 2C of said chapter 21, as so appearing, is hereby further amended by striking out, in lines 5, 7 and 14, the word “board” and inserting in place thereof, in each instance, the following words:— stewardship council.

SECTION 76. Said section 2C of said chapter 21, as so appearing, is hereby further amended by striking out, in line 17, the words “board of environmental management” and inserting in place thereof the following words:-- stewardship council.

SECTION 77. Section 2D of said chapter 21, as so appearing, is hereby amended by striking out, in line 1, the words “board of environmental management” and inserting in place thereof the following words:— stewardship council.

SECTION 78. Section 2E of said chapter 21, as so appearing, is hereby amended by striking out, in line 1, the words “board of environmental management” and inserting in place thereof the following words:—stewardship council.

SECTION 79. Said chapter 21, as so appearing, is hereby amended by striking out section 2F and inserting in place thereof the following section:—

Section 2F. The directors of the divisions of state parks and recreation and urban parks and recreation shall work in cooperation with the director of the division of fisheries and wildlife within the department of fish and game to establish coordinated management guidelines for sustainable forestry practices on public forest lands within the departments of conservation and recreation and on private forest lands. Said guidelines for public forest lands shall include agreements on equipment, personnel transfers, operational costs, and assignment of specific management responsibilities.

The commissioner of conservation and recreation shall submit management plans to the stewardship council for the council’s adoption with respect to all reservations, parks, and forests under the management of the department, regardless of whether such reservations, parks, or forests lie within the urban parks district or outside the urban parks district. Said management plans shall include guidelines for the operation and land stewardship of the aforementioned reservations, parks and forests, shall provide for the protection and stewardship of natural and cultural resources and shall ensure consistency between recreation, resource protection, and sustainable forest management. The commissioner shall seek and consider public input in the development of management plans, and shall make draft plans available for a public review and comment period through notice in the Environmental Monitor. Within thirty days of the adoption of such management plans, as amended from time to time, the commissioner shall file a copy of such plans as adopted by the council with the state secretary and the joint committee on natural resources and agriculture of the general court.

The commissioner of conservation and recreation shall be responsible for implementing said management plans, with due regard for the above requirement.

SECTION 80. Said chapter 21 is hereby further amended by adding the following new section:--

Section 2G. The stewardship council shall develop an oversight strategy of park management plans, capital planning and policy development. Such oversight strategies will be published annually and after a 30 day public comment period will be finalized and submitted to the Secretary of Environmental Affairs. Such oversight plans must be prepared and submitted 45 days prior to the submission to the legislature of the governor's annual budget.

SECTION 81. Said chapter 21 is hereby further amended by striking out section 3, as so appearing, and inserting in place thereof the following section:—

Section 3. The commissioner of conservation and recreation shall be the executive and administrative officer of the department, and he shall exercise supervision, direction and control over all the divisions of the department in accordance with such programs and policies as may from time to time be promulgated by the stewardship council. The commissioner shall be responsible for administering all laws vested in the department by general or special laws. The commissioner shall appoint and remove the directors of urban parks and recreation, state parks and recreation and water supply protection with the approval of the stewardship council. The commissioner shall appoint and remove the directors of other divisions, bureaus or offices which he may establish as he deems appropriate for the efficient management and centralized administration of the department. The directors shall be qualified by training, executive ability, relevant experience and personal participation in the public programs of federal, urban, or state parks and recreation systems, to administer the duties of their respective offices, and shall not be subject to chapter 31. The commissioner may also appoint and remove a professional geologist, who shall be the state geologist and who shall not be subject to chapter 31 or section 9A of chapter 30.

SECTION 82. Section 3A of said chapter 21, as so appearing, is hereby amended by striking out, in line 1, the words “board of environmental management” and inserting in place thereof the following words:— stewardship council.

SECTION 83. Section 3B of said chapter 21, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words “, with the approval of the board of environmental management,”.

SECTION 84. Section 3C of said chapter 21, as so appearing, is hereby amended by striking out, in lines 1 and 2, and in line 7, the words “board of environmental management” and inserting in place thereof, in each instance, the following words:— stewardship council.

SECTION 85. Section 3D of said chapter 21, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words “, with the approval of the board of environmental management,”.

SECTION 86. Sections 4, 4A, 4B, 4D, 4E, 4F, 4G, 5, 5A, 6, 6A, 6B, 6C, 6D, 6E, 6F, 6F½, 7, 7A, 7B, 7C, 7D, 7E, 7F, 7G, 7H and 7I of said chapter 21 are hereby repealed.

SECTION 87. Section 6I of said chapter 21 is hereby repealed.

SECTION 88. Section 8 of said chapter 21, as so appearing, is hereby amended by striking out, in line 1, the words “water resources” and inserting in place thereof the following words:— water supply protection.

SECTION 89. Said section 8 of said chapter 21, as so appearing, is hereby further amended by striking out, in line 3, the words “of the department of environmental management” and inserting in place thereof the following words:— department of conservation and recreation.

SECTION 90. Section 9A of said chapter 21, as so appearing, is hereby amended by striking, in line 9, the words “the governor,”.

SECTION 91. Section 14 of said chapter 21, as so appearing, is hereby amended by striking out, in line 23, the words “environmental management” and inserting in place thereof the following:— conservation and recreation.

SECTION 92. Said section 14 of said chapter 21, as so appearing, is hereby further amended by striking out, in lines 23 to 26, the words “, except that when the work to be done involves property under the care and control of the metropolitan district commission the division shall designate the metropolitan district commission as the contracting agent.”

SECTION 93. Sections 17A and 17B of said chapter 21 are hereby repealed.

SECTION 94. Section 17F of said chapter 21 is hereby repealed.

SECTION 95. Section 19 of said chapter 21, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 7, the words “fisheries, wildlife and recreational vehicles” and inserting in place thereof the following words:— fish and game.

SECTION 96. Section 26A of said chapter 21, as so appearing, is hereby amended by striking out, in lines 47 and 48, the words “metropolitan district commission”.

SECTION 97. Said chapter 21 is hereby further amended by adding the following 5 sections:—

Section 59. (a) The secretary of environmental affairs shall establish a program to assist the commonwealth in the acquisition of watershed preservation restrictions, as defined in section 31 of chapter 184, for land classified as watershed land as defined in regulations to be promulgated by the department of conservation and recreation.

(b) The commissioner of the department of conservation and recreation, the “commissioner”, may from funds appropriated to carry out the provisions of this section, or received from other sources, pay the owner of watershed lands which he determines to be beneficial to the maintenance of the water supply of the commonwealth an amount determined to be equitable but not to exceed the difference between the fair market value of such land and the fair market value of such land restricted for watershed purposes pursuant to this section. Title to such watershed preservation restrictions shall be held in the name of the commonwealth; provided, however, that a city or town in which such land is located, which provides assistance satisfactory to the commissioner, including but not limited to providing of funds or portions thereof toward the purchase of such restriction, the providing of legal services and the enforcement of the preservation restriction, shall hold title to such restrictions jointly with the commonwealth.

(c) Watershed preservation restriction projects shall be administered by conservation commissions in cities and towns in which such commissions have been established, or in a city, by the city council or its delegated agency subject to the provisions of the city charter,



or in a town, by the board of selectmen or its delegated agency. The commissioner, subject to the approval of the secretary of environmental affairs, shall establish procedures for the management of such programs.

Section 60. There is hereby created a watershed lands preservation committee in the department of conservation and recreation, the members of which shall be the commissioner of conservation and recreation, the secretary of environmental affairs, the director of the Massachusetts Water Resources Authority, the director of the division of water supply in the department of environmental protection, 1 member appointed by the speaker of the house, 1 member appointed by the minority leader of the house, 1 member appointed by the president of the senate, 1 member appointed by the minority leader of the senate, and 2 members appointed by the governor, 1 of whom shall represent an organization dedicated to conservation of natural resources and 1 of whom shall have expertise in the field of hydrology. The committee shall advise the commissioner of the department of conservation and recreation on the evaluation of projects and shall advise the commissioner on any rules or regulations necessary to carry out the intent of the watershed preservation restriction program.

Section 61. The commissioner of conservation and recreation shall prepare an annual report on the watershed preservation restriction program. The report shall include the number and geographic distribution of applicants accepted and rejected, the acreage and cost of purchase and such other information as will enable evaluation of the program.

Section 62. Land under watershed preservation restriction, while remaining under such restriction, shall be assessed for general tax purposes, to reflect the diminution of land value which may be caused by such watershed preservation restriction.

Section 63. Whenever the department deems it necessary to make surveys, soundings, drillings or examinations to obtain information for or to expedite the construction of its watershed system, parks, recreational facilities or other projects under its jurisdiction, the department, its authorized agents or employees, may, after due notice by registered or certified mail, enter upon any lands, waters and premises in the commonwealth for the purpose of making surveys, soundings, drillings and examinations as they may deem necessary or convenient for the purposes of this section, and such entry shall not be deemed a trespass nor shall an entry for such purposes be deemed an entry under any condemnation proceedings which may then be pending. The department shall make reimbursement for any injury or actual damage resulting to such lands, waters and premises caused by any act of its authorized agents or employees and shall, so far as possible, restore such lands to the same condition as prior to the making of such surveys, soundings, drillings or examinations.

SECTION 98. Section 7 of chapter 21A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 22 to 24, inclusive, the words “commissioner of environmental protection; the commissioner of fisheries, wildlife and environmental law enforcement, and the other.”

SECTION 99. Section 7A of said chapter 21A is hereby repealed.

SECTION 100. Section 8 of said chapter 21A, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 13, 14 and 15, the words “the division of outdoor advertising, the outdoor advertising board, the division of mineral resources, the powers and duties of the department of natural resources” and inserting in place thereof the following words:-- and the powers and duties.

SECTION 101. Said section 8 of said chapter 21A, as so appearing, is hereby further amended by striking out the fourth paragraph and inserting in place thereof the following paragraph:—

The department of conservation and recreation shall include a division of urban parks and recreation, a division of state parks and recreation and a division of water supply protection.

SECTION 102. Said section 8 of said chapter 21A is hereby further amended by striking out, in lines 48 and 49, the words “food and agriculture shall include the department of food and agriculture” and inserting in place thereof the following words:— “agricultural resources shall include”.

SECTION 103. Said section 8 of said chapter 21A is hereby further amended by striking out, in lines 50 and 51, the words “Massachusetts standardbred and breeding fund committee.”

SECTION 104. Said section 8 of said chapter 21A, as so appearing, is hereby further amended by striking out, in lines 53 and 54, the words “fisheries, wildlife and environmental law enforcement” and inserting in place thereof the following words:-- fish and game.

SECTION 105. Said section 8 of said chapter 21A, as so appearing, is hereby further amended by striking out, in line 56, the words “division of law enforcement.”

SECTION 106. Said section 8 of said chapter 21A, as so appearing, is hereby further amended by striking out the last sentence of the sixth paragraph.

SECTION 107. Said section 8 of said chapter 21A, as so appearing, is hereby further amended by striking out the ninth and tenth paragraphs.

SECTION 108. Said section 8 of said chapter 21A, as so appearing, is hereby further amended by inserting after the word “include”, in line 102, the following words:— the office of law enforcement, the office of administrative appeals.

SECTION 109. Section 8A of said chapter 21A, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words “department of environmental management, the commissioner of the metropolitan district commission” and inserting in place thereof the following words:— department of conservation and recreation.

SECTION 110. Section 8A of said chapter 21A, as so appearing, is hereby further amended by striking out, in lines 8 and 9, the words “fisheries, wildlife and environmental law enforcement” and inserting in place thereof the following words:— fish and game.

SECTION 111. Said section 8A of said chapter 21A, as so appearing, is hereby further amended by striking out, in lines 11 and 13, the word "six" and inserting in place thereof, in each instance, the following figure:— 5.

SECTION 112. Section 10 of said chapter 21A is hereby repealed.

SECTION 113. Said chapter 21A is hereby further amended by inserting after section 10 the following 8 sections:—

Section 10A. The office of law enforcement shall be in the executive office of environmental affairs and shall be under the administrative supervision of a director who shall be called the director of law enforcement. The director shall be qualified by training, experience and executive ability and shall not be subject to chapter 31. The secretary shall appoint the director and may remove him. The director shall appoint and may remove with the approval of the secretary such deputy directors of enforcement and chiefs of enforcement as may be necessary to carry out the duties of the office; provided, however, that the chief of enforcement of the boating and recreation vehicle safety enforcement bureau shall be appointed and may be removed by the director with the approval of the boating and recreational vehicle safety advisory board established pursuant to section 11 of chapter 21A. Such positions shall not be subject to chapter 31. The deputy directors of enforcement, assisted by law enforcement coordinators, shall perform such enforcement and administrative duties as assigned by the director.

The director may with the approval of the secretary designate employees of the commonwealth and the United States as deputy environmental police officers.

The director may promulgate rules and regulations necessary for implementation of sections 10A to 10H, inclusive; provided, however, that no rule or regulation promulgated under this section shall take effect before the thirtieth day next following the date on which a copy of such rule or regulation has been filed with the joint committee on natural resources and agriculture.

Section 10B. It shall be the duty of the office of law enforcement to enforce all penal laws which it is the duty of any agency within the executive office of environmental affairs to enforce, provisions of the General Laws or any special laws to the contrary notwithstanding.

Nothing in this section shall be construed as divesting other officers or employees of the commonwealth of the duty to enforce laws as provided for in the General Laws or any special laws. It shall also direct all inspections, claims and investigations. All police agencies shall at once notify the office of law enforcement or an environmental police officer thereof of a person presumed to be lost in any of the woodlands of the commonwealth.

Section 10C. The secretary, undersecretary, director, deputy directors of enforcement, chiefs of enforcement and all deputy chiefs of enforcement, law enforcement coordinators, and the wardens, as defined in section 1 of chapter 131, and all environmental police officers and deputy environmental police officers shall have and exercise throughout the commonwealth, subject to such rules and regulations as the director, with the approval of the secretary, may from time to time adopt, all the authority of police officers and constables, except the service of civil process. Such rules and regulations shall be filed with the state secretary in accordance with section 37 of chapter 30. The director may authorize in writing any such deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, and any environmental police officer to have in their possession and carry a firearm, revolver, club, billy, handcuffs, twistlers, or any other weapon or article required in the performance of official duty.

Section 10D. Each deputy director of enforcement, chief of enforcement, deputy chief of enforcement, warden, environmental police officer or deputy environmental police officer, when on duty and in uniform shall wear on his outer clothing or otherwise display a metallic badge bearing the seal of the commonwealth and appropriate words to identify his position, together with a number to be assigned by the director.

The director may, with the approval of the secretary, prescribe by rules and regulations a standard form of uniform to be worn by such personnel. Such badge or uniform or any distinctive part thereof so prescribed shall be worn only by such personnel entitled thereto under the rules and regulations.

Whoever violates this section by wearing such badge or uniform without authority or by impersonating an officer authorized to wear such badge or uniform shall be punished by a fine of not less than \$10 or more than \$100 dollars.

Section 10E. The secretary, director, deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement, environmental police officers and deputy environmental police officers, may in the performance of their duties enter upon and pass through or over private property or lands whether or not covered by water, and may keep or dispose of sick, dead, injured, or helpless fish, birds or mammals that may come into their possession, subject to such rules and regulations as the director, with the approval of the secretary, may adopt.

Section 10F. Notwithstanding chapter 149 or of any other general or special law to the contrary, the director, with the approval of the secretary, shall make rules and regulations governing the tours of duty and hours of work for the deputy directors of enforcement, chiefs of enforcement, deputy chiefs of enforcement and environmental police officers. The rules and regulations shall provide, in the case of boat based personnel, that such officers may be required to be on duty up to 96 consecutive hours, and off duty a similar number of hours, for each tour of duty. Land based personnel, however, shall be compensated for any additional work in accordance with section 30C of chapter 149. Boat personnel shall be paid 4 dollars and 50 cents in lieu of meals allowances for each day of duty and shall be deemed to be on full travel status. Such rules and regulations shall also provide for the assignment of all officers of the division to any area within the commonwealth and for the conduct of such officers in the performance of their duties.

Section 10G. If the director, his assistant or any environmental police officer, deputy environmental police officer, members of the state police, local police, local town law enforcement officials in shellfish beds over which they have jurisdiction, or harbor masters acting pursuant to authority arising under chapter 90B, employed to enforce the sections contained in section 10H determines that a violation thereof has occurred or is occurring, he may request the offender state his name and address.

Whoever, upon such request, refuses to state his name and address may be arrested without a warrant, or if he states a false name and address or a name and address which is not his name and address in ordinary use, shall be punished by a fine of not more than \$200 dollars. Such officer may, as an alternative to instituting criminal proceedings, forthwith give to the offender a written notice to appear before the clerk of the district court having jurisdiction at any time during office hours, not later than 21 days after the date of such violation.

Six copies of such notice shall be made and each shall contain the name and address of the offender and, if served with the notice in hand at the time of such violation, the number of his license, if any, to operate motor vehicles; the registration number of the vehicle or motorboat involved, if any; the number of the license, certificate of permit, if any, issued pursuant to chapter 130 or chapter 131

which is relevant to the violation; the specific offense or offenses charged and the time and place of the violation; and the time and place for his required appearance. The notice shall be signed by the officer, and shall be signed by the offender in acknowledgment that the notice has been received. The officer shall deliver to the offender at the time and place of the violation a copy of the notice. At or before the completion of each tour of duty the officer shall forward to his commanding officer copies of each notice of such violation that he has issued during such tour. The commanding officer shall promptly mail 1 copy of each notice to the director and shall retain and safely preserve 1 copy. Before the end of his tour of duty such issuing officer shall forward to the respective court before whom the offender has been notified to appear the court copy of each notice of such violation that he has issued during such tour. The clerk of each district court shall maintain a separate docket of all such notices to appear.

Any person so notified to appear before the clerk of a district court may appear before such clerk and confess the offense charged, either personally or through an agent duly authorized in writing; or may mail to such clerk, with the citation, the fine provided on the citation, provided that it is the first offense for such violation within 2 calendar years.

At the time of such appearance the person shall provide the clerk with the notice issued by said officer and shall pay to the clerk the fine as provided in section 10H, such payment to be made only by cash, postal note, money order or certified check. Payment of the fine shall operate as a final disposition of the case. Proceedings under this paragraph shall not be deemed criminal and a person notified to appear before the clerk of a district court shall not be required to report to any probation officer, and no record of the case shall be entered in the probation records. If at any time the court finds that the interests of justice so require, it may cause a warrant to be issued as provided in section 32 of chapter 218.

If any person notified to appear before the clerk of the district court fails to so appear and pay the fine provided under this section or, having appeared, desires not to avail himself of the procedure for the non-criminal disposition of the case, the clerk shall notify the officer concerned, who shall forthwith make a criminal complaint. If any person fails to appear in accordance with a summons issued upon such complaint, the clerk shall send to such person by certified mail, return receipt requested, a notice that the complaint is pending and that if the person fails to appear within 21 days from the sending of such notice, the court shall issue a warrant for his arrest.

The director, his assistants, any environmental police officers, deputy environmental police officers, members of the state police, local police and shellfish constables in areas of their respective jurisdiction empowered to enforce section 10H may seize any fish, birds, or mammals unlawfully taken or held which shall be forfeited to the commonwealth and disposed of by the director for the best interests of the commonwealth.

The secretary shall adopt rules and regulations consistent with this chapter and shall file the regulations in accordance with section 37 of chapter 30.

All fines, penalties and forfeitures in actions under this section or section 10H shall be paid to the general fund of the city or town in which the violation occurred; provided, however, that if the complaining officer is receiving compensation from the commonwealth, such fines, penalties and forfeitures shall be paid to the commonwealth; and provided, further, that if the complaining officer is an environmental police officer or deputy environmental police officer, such fines, penalties and forfeitures shall be retained by the division of law enforcement; and provided, further, that if the complaining officer is a chief park ranger or park ranger, such fines, penalties or forfeitures, in addition to those imposed pursuant to section 16 of chapter 270, shall be forwarded to the department of conservation and recreation to be deposited as revenue and shall be applicable to the department's retained revenue account. At the end of each fiscal year, the office of law enforcement shall pay the Inland Fish and Game Fund an amount equivalent to the sum of all fines, penalties and forfeitures received by the office of law enforcement during such fiscal year for violations of chapter 131 or the regulations promulgated under this chapter.

The director shall issue books of non-criminal citation forms to the enforcement personnel authorized under this section. The director may charge a reasonable fee for such citation forms in accordance with section 3B of chapter 7.

Section 10H. A person notified to appear before the clerk of a district court as provided in section 10G for a violation of section 4A of chapter 21, the regulations promulgated pursuant to section 17A of said chapter 21, the regulations promulgated pursuant to chapter 90B, or the rules and regulations of the division of fisheries and wildlife regulating activity on land under the management of such division, may so appear within the time specified and pay a fine of \$50 dollars.

A person notified to appear before the clerk of a district court as provided in section 10G for a violation of section 2, 3, 4, 5, 5A, 6, 7, subsection (b) of section 9, section 12, 12A or 13A of chapter 90B may so appear within the time specified and pay a fine of \$50 dollars.

A person notified to appear before the clerk of a district court as provided in section 10G for violation of subsections (b), (c) and (e) of section 8 of said chapter 90B may so appear within the time specified and pay a fine of \$100.

A person notified to appear before the clerk of a district court as provided in said section 10G for violation of section 17A, 33, 34, 36, 39, 40, 51, 69, 70, 71, 72, 81, 82 or 95 of chapter 130 may so appear within the time specified and pay a fine of \$50.

A person notified to appear before the clerk of a district court as provided in said section 10G for violation of section 35, 37, 38, 38A, 41, 41A, 44, 67, 68, 80, 92, 100A or 100C of said chapter 130 may so appear and pay a fine of \$100.

A person notified to appear before the clerk of a district court as provided in said section 10G for a violation of section 47 and section 75 of chapter 130, or section 65 of chapter 131, may so appear within the time specified and pay a fine of \$200.

A person notified to appear before the clerk of a district court as provided in said section 10G for a violation of section 1, 5, 6, 8, 10, 11, 13, 16, 19A, 23 to 25, inclusive, 26, 27, 28, 30, 32, 33, 36, 38, 44, 47, 49 to 54, inclusive, 57, 59, 69, 71, 72, 76, 77, 79, 80 or 82 of chapter 131 may so appear and pay a fine of \$50.

A person notified to appear before the clerk of a district court as provided in said section 10G for violations of section 58, 66, 67, 70, 75A or 80A of said chapter 131 may appear and pay a fine of \$100.

SECTION 114. Section 11 of chapter 21A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 1, the word "division" and inserting in place thereof the following word:— office.

SECTION 115. Section 11A of said chapter 21A, as so appearing, is hereby amended by striking out, in line 7, the words "the commissioner of the metropolitan district commission or his designee,".

SECTION 116. Said chapter 21A is hereby further amended by inserting, after section 11A, the following 2 sections:--

Section 11B. There shall be in the department of fisheries, wildlife and environmental law enforcement a board to be known as the public access board composed of the director of the division of fisheries and wildlife, the director of the office of law enforcement, the director of the division of marine fisheries, the director of the division of forests and parks and the deputy chief engineer of the division of waterways or their respective designees and the chairmanship of said board shall be by vote of said members. The board shall meet at the call of the chairman and shall by majority vote designate locations of public access to great ponds and other waters within the commonwealth and locations of trails and paths for snowmobiling, hiking, skiing or other uses; provided, however, that no location shall be so designated except after a public hearing in the city or town in which it is situated. Notice of such hearing shall be given in the case of a city, to its mayor and in the case of a town, to its board of selectmen at least twenty days before the date of the hearing. The department shall, after receiving written notice of such designation, acquire by purchase, gift, or lease or, with the consent of the governor, by eminent domain such land and water areas, or interests and easements therein, which have been designated by said board for the purpose of providing such public access, trails and related facilities, or it may utilize public lands with the consent of the department or other public agency in charge thereof. The department may construct such roads, parking areas, docks, ramps, trails, shelters, comfort stations and related facilities as may be designated by said board and shall maintain, operate and improve such facilities and associated land and water areas; provided, however, that the department may enter into agreements with other public agencies to transfer operation of such areas to said agency. The department may adopt, after public hearing, regulations governing the use of land and water areas under this section, violation of which may be punished by a fine of not more than one hundred dollars and which may be enforced by any employee of the commonwealth, or of a city or town, having police powers. The cost of such acquisition, construction, maintenance, operation and improvement, and the administrative and other expenses, including planning, incurred by the department in connection with the activities authorized by this section shall be chargeable to the General Fund. The board may purchase from sums appropriated safety, rescue, patrol and maintenance equipment and may transfer the same to agencies of the commonwealth having responsibilities for law enforcement or management of public lands.

Section 11C. The commissioner, with the approval of the stewardship council, may from time to time, for the purpose of promoting the public safety, health and welfare, and protecting public and private property, wildlife, fresh water fisheries, and irreplaceable wild, scenic and recreational river resources, adopt, amend, modify, or repeal orders regulating, restricting or prohibiting dredging, filling, removing or otherwise altering, or polluting the scenic and recreational rivers and streams of the commonwealth. The notice required by section two of chapter thirty A as a condition precedent to the adoption or amendment of any regulation shall be given to each assessed owner of any land on the banks of any such river or stream. In this section, the term "scenic and recreational rivers and streams of the commonwealth" shall mean, rivers and streams of the commonwealth or portions thereof, and such contiguous land not to exceed one hundred yards on either side of the natural bank of such river as the commissioner reasonably deems it necessary to protect by any such order.

The commissioner, with the approval of said board, may, for the purpose of protecting the scenic and recreational rivers and streams of the commonwealth, provide for the restriction and classification of the waters of said rivers and streams for scenic or recreational purposes. Signs indicating such restriction or classification shall be posted by the department at reasonable intervals along the banks of said rivers and streams.

Upon adoption of any such order or any order amending, modifying or appealing the same, the commissioner shall cause a copy thereof, together with a plan of the river or stream or portion thereof affected and a list of the assessed owners of such lands, to be recorded in the registry of deeds for the county wherein said river or stream is located, and shall mail a copy of such order and plan to each assessed owner of such lands affected thereby. Such order shall not be subject to the provisions of chapter one hundred and eighty-four. Any person who violates any such order shall be punished by a fine of not less than ten dollars nor more than one hundred dollars, or by imprisonment for not more than six months, or both.

The superior court shall have jurisdiction in equity to restrain violations of such orders.

Any person having a recorded interest in land affected by any such order, may, within ninety days after receiving notice thereof, petition the superior court to determine whether such order unreasonably restricts the use of his property as to deprive him of the practical uses thereof and which constitutes an unreasonable exercise of the police power so as to become the equivalent of a taking without compensation. If the court finds the order to be unreasonable, the court shall enter a finding that such order shall not apply to the land of the petitioner; provided, however, that such finding shall not affect any other land than that of the petitioner. The commissioner shall cause a copy of such finding to be recorded forthwith in the proper registry of deeds or, if the land is registered, in the registry district of the land court. The method provided in this paragraph for the determination of the issue of whether any such order constitutes a taking without compensation shall be exclusive, and such issue shall not be determined in any other proceeding, nor shall any person have a right to petition for the assessment of damages under chapter seventy-nine by reason of the adoption of any such order.

The department may, after a finding has been entered that such order shall not apply to certain land as provided in the preceding paragraph, take the fee or any lesser interest in such land in the name of the commonwealth by eminent domain under the provisions of chapter seventy-nine and hold the same for the purposes set forth in this section.

No action by the commissioner or the department under this section shall prohibit, restrict or impair the exercise or performance of the powers and duties conferred or imposed by law on the department of highways, the state reclamation board or any mosquito control or other project operating under or authorized by chapter two hundred and fifty-two. No order adopted under the provisions of this section shall be deemed to invalidate any order imposed prior thereto by the department of natural resources, the department of environmental management or the department of environmental protection pursuant to section twenty-seven A of chapter one hundred and thirty or of sections forty, forty A or one hundred and five of chapter one hundred and thirty-one.

Costs incurred under this section including, but not limited to, the acquisition of lands or interests therein, awards of damages, surveying and mapping, the preparation of designation plans, printing of reports, conducting of public hearings, and expenses incidental thereto may be paid in accordance with the provisions of section seventeen of chapter twenty-one.

The superior court, upon a complaint in the nature of a civil action shall have the jurisdiction to determine whether an order promulgated under this section constitutes a taking without compensation. Such determination shall be independent of any determination by the court of the reasonableness of the exercise of the police power under this section. Said superior court is hereby authorized to hear a complaint of any person having a recorded interest in land or a class action under Rule 23 of the Massachusetts Rules of Civil Procedure and may award damages under the provisions of chapter seventy-nine by reason of the adoption of the order, whether or not such order is determined to be unreasonable.

If the court determines that such order is unreasonable, and if the commissioner shall petition under the provisions of chapter seventy-nine for a taking by eminent domain, the court shall have the power to award damages to the person having the recorded interest in land affected by such order or make such general award of damages relative to a class of land owners who qualify under said Rule 23.

SECTION 117. Said chapter 21A is hereby further amended by inserting after section 16, as so appearing, the following 4 sections:—  
Section 16A. There shall be an office of administrative appeals in the executive office of environmental affairs. No administrative law judge of the office shall be removed for any reason other than just cause.

Section 16B. The conduct of proceedings before the board shall be governed by the provisions of chapter 30A of the General Laws and, in addition, by the standard rules promulgated pursuant to section 9 of said chapter 30A or by such substitute rules as the office shall promulgate pursuant to section 9 of said chapter 30A.

Section 16C. A recommended final decision issued by one or more of the board's administrative law judges shall become the final decision of the agency, department, board, commission or program whose decision, determination or action was under review unless, within sixty days following the date of issuance of the recommended final decision, the commissioner or other head of said agency, department, board, commission or program, or a designee, issues a final decision that adopts, rejects or modifies the recommended final decision.

Section 16D. Every decision issued by a commissioner or other head of agency, or a designee, following the issuance of a recommended final decision by an administrative law judge of the board, shall be an agency decision subject to judicial review pursuant to chapter 30A of the General Laws.

SECTION 118. Section 2 of chapter 21D of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 11 and 18, the word "management" and inserting in place thereof, in each instance, the following word:— protection.

SECTION 119. Section 3 of said chapter 21D, as so appearing, is hereby amended by striking out, in line 1, the word "management" and inserting in place thereof the following word:— protection.

SECTION 120. Said section 3 of said chapter 21D, as so appearing, is hereby amended by striking out, in lines 60 and 61, the words "the department of environmental protection,".

SECTION 121. Said section 3 of said chapter 21D, as so appearing, is hereby amended by striking out the last paragraph.

SECTION 122. Section 7 of said chapter 21D, as so appearing, is hereby amended by striking out, in lines 45 and 46, the words "and upon consultation with the department of environmental protection,".

SECTION 123. The General Laws are hereby amended by inserting after chapter 21K the following chapter:—

#### CHAPTER 21L. Environmental Endangerment Act.

Section 1. As used in the chapter, the following words shall have the following meanings unless the context clearly requires otherwise: "Environmental violation", a violation of the following statutes or regulations promulgated thereunder: sections 26 to 53, inclusive, of chapter 21; chapter 21C, chapter 21E; sections 142A, 142B and 150A of chapter 111; and section 40 of chapter 131.

"Natural resources", land fish, wildlife, biota, air, water, groundwater and drinking water supplies belonging to, managed by, held in trust by, appertaining to or otherwise controlled by the commonwealth or any local government.

"Organization", a person other than an individual.

"Person", an individual, public or private corporation or authority, trust, firm, joint stock company, partnership, association or other entity and any officer, employee, or agent of such person and any group of persons.

"Serious bodily injury", bodily injury which creates a substantial risk of death or which involves unconsciousness, extreme physical pain, protracted and obvious disfigurement, protracted loss or impairment of the function of a bodily member, organ or mental faculty, reproductive or genetic damage or a substantially increased risk of cancer or other chronic ailment.

Section 2. (a) A person who knowingly or recklessly commits an environmental violation and thereby causes serious bodily injury to another human being:

(1) shall be punished by a fine of not more than \$100,000 or by imprisonment in the state prison for not more than 20 years or in a jail or house of correction for not more than 2½ years or both such fine and imprisonment, in the case of an individual; and (2) in the case of an organization, shall be punished by a fine of not more than \$500,000 for a first offense and by a fine of not more than \$2,000,000 for any second or subsequent offense.

(b) A person who knowingly or recklessly commits an environmental violation and thereby causes a substantial risk of damage to natural resources or to the property of another person, in an amount exceeding \$25,000: (1) shall be punished by a fine of not more than \$100,000, or by imprisonment in the state prison for not more than 5 years or in a jail or house of correction for not more than 2½ years or both such fine and imprisonment, in the case of an individual; and (2) in the case of an organization, shall be punished by a fine of not more than \$250,000 for a first offense and by a fine of not more than \$500,000 for a second or subsequent offense.

Section 3. (a) The court: (1) shall, when sentencing an organization for an offense under clause (2) of subsection (a) of section 2 or for a second or subsequent offense under clause (2) of subsection (b) of said section 2; and (2) may, when sentencing an organization for a first offense under said clause (2) of said subsection (b) of said section (2) place the organization on probation and require as a condition of that probation that the organization pay for an environmental audit.

(b) The court shall appoint an independent expert with no prior involvement in the environmental management of the organization sentenced to conduct an environmental audit under this section. The prosecution and the defense may each submit names of suggested experts. The court shall consider any such submissions in making an appointment under this subsection.

- (c) The environmental audit shall: (1) identify all causes of, and any factors that contributed to, the conduct that is the basis for the conviction and recommend specific measures to prevent a recurrence of such causes or factors; and (2) recommend a schedule for implementation of the recommendations under clause (1).
- (d) The court shall order the defendant to implement each recommendation of the audit unless the court finds by clear and convincing evidence that: (1) the recommendation will not achieve the result the recommendation seeks to bring about; (2) the adverse environmental effects of implementing the recommendation outweigh the environmental benefits of the recommendation; (3) the technology does not exist to carry out the recommendation; or (4) there are alternative means to achieve the equivalent result at significantly less cost to the defendant. Any such alternative means shall be incorporated into the audit in place of the relevant recommendation and the court shall order the defendant to implement the audit as modified.
- (e) The court may impose for an offense under this chapter a term of probation that is longer than the term otherwise permitted by law, if the court determines that the longer term is necessary to implement the environmental audit.
- (f) The prosecutor, the auditor appointed under clause 2 subsection (b) or governmental agency may suggest to the court that a failure to implement the audit has taken place. Whenever the alleged failure to implement an environmental audit is properly before the court, unless the defendant demonstrates that the failure did not take place, the court shall order appropriate sanctions.
- (g) In addition to any other sanctions the court may impose for failure to implement an environmental audit, the court may: (1) hold any appropriate person in contempt; or (2) appoint a special master to conduct such affairs of the defendant as are necessary and relevant to implementation of the audit.

SECTION 124. The General Laws are hereby amended by inserting after chapter 22E the following chapter:—

#### CHAPTER 22F.

#### THE DEPARTMENT OF FORENSIC SCIENCES.

Section 1. As used in this chapter, the following words shall, unless the context requires otherwise, have the following meanings:—

“Commission”, the commission on medico-legal investigation, established by section 184 of chapter 6.

“Department”, the department of forensic sciences.

“Office”, the office of the chief medical examiner.

Section 2. There shall be a department of forensic sciences within the executive office of public safety. The department shall oversee and coordinate all forensic science services performed by the commonwealth and work in conjunction with the attorney general, the district attorneys and state and local law enforcement authorities to improve the availability and timeliness of forensic science services as an effective tool for public safety. The office of the chief medical examiner and the state police crime laboratory shall be included within the department. The state police shall be responsible for the daily operations of the state police crime laboratory but shall coordinate operations within the department.

Section 3. There shall be a chief medical examiner in the department of forensic sciences within the executive office of public safety. Costs and expenses of the chief medical examiner and staff shall be paid by the commonwealth.

The chief medical examiner shall be a physician who is a diplomate of the American Board of Pathology in Forensic Pathology, a graduate of an approved fellowship program in forensic medicine, a diplomate of the American Board of Anatomic and Forensic Pathology and licensed to practice medicine in the commonwealth and must reside within the commonwealth within 6 months after his appointment. The chief medical examiner shall be appointed by the governor for a term of 5 years from among a list of not less than 3 nominees recommended by the commission on medico-legal investigation. The governor may request additional nominees from the commission before making the appointment. The chief medical examiner’s salary and the salary of the deputy chief medical examiner shall be set by the governor and shall be commensurate with those of similar positions in comparable jurisdictions.

In the case of the death, removal, resignation or permanent incapacity of the chief medical examiner, the governor shall appoint a new chief medical examiner within 6 months.

The chief medical examiner, with the approval of the commission, shall establish a comprehensive system to deliver medico-legal investigative services in the commonwealth. The chief medical examiner shall appoint a deputy chief medical examiner who shall perform all of the duties of the chief medical examiner in case of incapacity or absence. The chief medical examiner may appoint such associate chief medical examiners as necessary.

The chief medical examiner may, subject to the approval of the secretary of public safety, apply for and accept on behalf of the commonwealth any funds, including grants, bequests, gifts or contributions, from any person for the improvement of the system of medico-legal investigative services in the commonwealth. Such funds shall be deposited in a separate account with the state treasurer and received by him on behalf of the commonwealth. All such funds may be expended by the chief medical examiner, in accordance with law.

District medical examiners shall be appointed by the chief medical examiner to conduct appropriate medico-legal investigations within the commonwealth. Such medical examiners shall serve in areas or districts as determined by the chief medical examiner and for terms of office at his discretion. Such medical examiners shall be responsible, under the direction of the chief medical examiner or the deputy medical examiner or an associate chief medical examiner, for the investigation and certification as to the cause of deaths under their jurisdiction. District medical examiners shall be licensed to practice medicine within the commonwealth and shall reside therein. In areas where such individuals are not available, the chief medical examiner or his representative may appoint other appropriately qualified individuals to conduct medico-legal investigations. Those medical examiners and associate medical examiners who are functioning under prior gubernatorial appointments shall continue to do so for the remainder of their term in their present districts. The office of the chief medical examiner shall have custody of all files, reports, photographs and other articles generated by all employees or vendors of the office.

The chief medical examiner, with approval of the secretary of the executive office of public safety, shall promulgate rules for the disclosure of autopsy reports, which shall not be deemed to be public records, to those who are legally entitled to receive them. If a medical examiner conducts an autopsy on a body of a deceased person who within 6 months before the date of death received services from a facility or program operated, contracted for, or licensed by the department of mental health, the office of the chief medical examiner shall provide a copy of the autopsy report, upon request, to the commissioner of mental health for the purpose of completing an investigation into the circumstances surrounding the death, if a next of kin does not object thereto. The chief medical examiner, with the approval of said secretary, may establish fees for providing autopsy reports to those who are legally entitled to receive them.

Neither the chief medical examiner, nor any employee of the office of the chief medical examiner, shall be subject to civil or criminal liability for lawfully disclosing an autopsy report or any part thereof, pursuant to the rules concerning the disclosure of autopsy reports promulgated under this section, to anyone legally entitled to receive it.

Section 4. (a) As used in this section, the following words shall have the following meanings:—

“Child”, any person under the age of 18.

“Fatality”, any death of a child.

“Local team”, a local multidisciplinary and multi-agency child fatality review team in each of the 11 districts headed by a district attorney. Notwithstanding the provisions of section 172 of chapter 6, members of the local team shall be subject to criminal offender record checks to be conducted by the district attorney. All members shall serve without compensation for their duties associated with membership on said team. Each local team shall be comprised of at least the following members:

- (1) the district attorney of the county, who shall chair each local team;
- (2) the chief medical examiner or his designee;
- (3) the commissioner of the department of social services or his designee;
- (4) a pediatrician with experience in diagnosing or treating child abuse and neglect, appointed by the state team;
- (5) a local police officer from the town or city where the child fatality occurred, appointed by the chief of police of said municipality;
- (6) a state law enforcement officer, appointed by the colonel of state police;
- (7) the chief justice of the juvenile division of the trial court or his designee;
- (8) the director of the Massachusetts center for sudden infant death syndrome, located at the Boston Medical Center or his designee;
- (9) the commissioner of the department of public health or his designee; and
- (10) any other person with expertise or information relevant to individual cases who may attend meetings on an ad hoc basis, by agreement of the permanent members of each local team. Such persons may include, but shall not be limited to, local or state law enforcement officers, hospital representatives, medical specialists or subspecialists, or designees of the commissioners of the departments of mental retardation, mental health, youth services and education, and the office of child care service.

“State team”, a child fatality review team within the office of the chief medical examiner. Notwithstanding the provisions of section 172 of chapter 6, members of the state team shall be subject to criminal offender record checks to be conducted by the colonel of the state police, on behalf of the chief medical examiner. All members shall serve without compensation for their duties associated with membership on said team. The state team shall consist of at least the following members:—

- (1) the chief medical examiner, who shall chair the state team;
- (2) the attorney general or his designee;
- (3) the commissioner of the department of social services or his designee;
- (4) the commissioner of the department of public health or his designee;
- (5) the commissioner of the department of education or his designee;
- (6) a representative of the Massachusetts District Attorney’s Association to be selected by said association;
- (7) the colonel of the state police or his designee;
- (8) the commissioner of the department of mental health or his designee;
- (9) the commissioner of the department of mental retardation or his designee;
- (10) the director of the Massachusetts center for sudden infant death syndrome or his designee;
- (11) the commissioner of the department of youth services or his designee;
- (11A) the office of child care services;
- (12) a representative of the Massachusetts chapter of the American Academy of Pediatrics, with experience in diagnosing or treating child abuse and neglect to be selected by said chapter;
- (13) a representative from the Massachusetts Hospital Association to be selected by said association;
- (14) the chief justice of the juvenile division of the trial court or his designee;
- (15) the president of the Massachusetts Chiefs of Police Association or his designee;
- (16) a child advocate appointed by a majority vote of the members of the state team; and
- (17) any other person selected by the chair, or by majority vote of the members of the state team, with expertise or information relevant to individual cases.

(18) a forensic registered nurse selected by the Massachusetts Nurses Association;

(b)(1) There shall be established within the office of the chief medical examiner the state child fatality review team. The purpose of the state team shall be to decrease the incidence of preventable child deaths and injuries by:

- (i) developing an understanding of the causes and incidence of child death; and
- (ii) advising the governor, the general court and the public by recommending changes in law, policy and practice that will prevent child deaths.

(2) To achieve its purpose, the state team shall:

- (i) develop model investigative and data collection protocols for local child fatality teams;
- (ii) provide information to local teams and law enforcement agencies for the purpose of the protection of children;
- (iii) provide training and written materials to the local teams to assist them in carrying out their duties;
- (iv) review reports from local teams;
- (v) study the incidence and causes of child fatalities in the commonwealth;
- (vi) analyze community, public and private agency involvement with the decedents and their families prior to and subsequent to the deaths;
- (vii) develop a protocol for the collection of data regarding child deaths and provide training to local teams on the protocol;
- (viii) develop and implement such rules and procedures as are necessary for its own operation; and
- (ix) provide the governor, the general court and the public with annual written reports, subject to confidentiality restrictions, which shall include, but not be limited to, the state team’s findings and recommendations.

(c)(1) A local child fatality review team shall be established in each of the 11 districts headed by a district attorney. The purpose of each such local team shall be to decrease the incidence of preventable child deaths and injuries by:

- (i) coordinating the collection of information on child deaths;
- (ii) promoting cooperation and coordination between agencies responding to child deaths and in providing services to family members;

- (iii) developing an understanding of the causes and incidence of child deaths in the county; and
- (iv) advising the state team on changes in law, policy or practice which may affect child deaths and injuries.

(2) To achieve its purpose, the local team shall:

- (i) review, establish and implement model protocols from the state team;
- (ii) review, subject to the approval of the local district attorney, all individual child deaths in accordance with the established protocol;
- (iii) meet periodically, but at least 4 times per calendar year, to review the status of child death cases and recommend methods of improving coordination of services between member agencies;
- (iv) collect, maintain and provide confidential data as required by the state team; and
- (v) provide law enforcement or other agencies with information for the purposes of the protection of children.

(3) At the request of the local district attorney, the local team shall be immediately provided with:

- (i) information and records relevant to the cause of death of a child whose death is being reviewed by the local team, from providers of medical or other care, treatment or services, including dental and mental health care;
- (ii) information and records relevant to the cause of death maintained by any state, county or local government agency including, but not limited to, birth certificates, medical examiner investigative data, parole and probation information records, and law enforcement data post-disposition, except that certain law enforcement records may be exempted by the local district attorney;
- (iii) information and records of any provider of social services, including the state department of social services, to the child or his family, that the local team deems relevant to the review; and
- (iv) demographic information relevant to the decedent and his immediate family including, but not limited to, address, age, race, gender and economic status. The district attorney may enforce this paragraph by seeking an order of the superior court.

(d)(1) The following provisions shall apply to both the state and local teams:

Any privilege or restriction on disclosure established pursuant to chapter 66A, section 70 of chapter 111, section 11 of chapter 111B, section 18 of 111E, chapters 112, 123 or sections 20B, 20J or 20K of chapter 233 or any other law relating to confidential communications shall not prohibit the disclosure of this information to the chair. Any information considered to be confidential pursuant to the aforementioned statutes may be submitted for the team's review upon the determination of the chair that the review of said information is necessary. The chair shall ensure that no information submitted for the team's review is disseminated to parties outside the team. Under no circumstances shall any member of this team violate the confidentiality provisions set forth in the aforementioned statutes.

(2) Except as necessary to carry out a team's purpose and duties, members of a team and persons attending a team meeting may not disclose any information relating to the team's business.

(3) Team meetings shall be closed to the public. Any and all information and records acquired by the state team or by a local team, in the exercise of its purpose and duties pursuant to this chapter, shall be confidential, exempt from disclosure under chapter 66, and may only be disclosed as necessary to carry out the teams' duties and purposes.

(4) Statistical compilations of data which do not contain any information that would permit the identification of any person may be disclosed to the public.

(5) Members of a team, persons attending a team meeting and persons who present information to a team may not be questioned in any civil or criminal proceeding regarding information presented in or opinions formed as a result of a team meeting.

(6) Information, documents and records of the state team or of a local team shall not be subject to subpoena, discovery or introduction into evidence in any civil or criminal proceeding; provided, however, that information, documents and records otherwise available from any other source shall not be immune from subpoena, discovery or introduction into evidence through these sources solely because they were presented during proceedings of the team or are maintained by a team.

(e) Nothing in this section shall be construed or interpreted to limit the powers and duties of the chief medical examiner or district attorneys.

Section 5. Any person having knowledge of a death which occurs under the circumstances enumerated in this paragraph shall immediately notify the office of the chief medical examiner, or the medical examiner designated, to the location where the death has occurred, of the known facts concerning the time, place, manner, circumstances and cause of such death:

- (1) death where criminal violence appears to have taken place, regardless of the time interval between the incident and death, and regardless of whether such violence appears to have been the immediate cause of death, or a contributory factor thereto;
- (2) death by accident or unintentional injury, regardless of time interval between the incident and death, and regardless of whether such injury appears to have been the immediate cause of death, or a contributory factor thereto;
- (3) suicide, regardless of the time interval between the incident and death;
- (4) death under suspicious or unusual circumstances;
- (5) death following an unlawful abortion;
- (6) death related to occupational illness or injury;
- (7) death in custody, in any jail or correctional facility or in any mental health or mental retardation institution;
- (8) death where suspicion of abuse of a child, family or household member, elder person or disabled person exists;
- (9) death due to poison or acute or chronic use of drugs or alcohol;
- (10) skeletal remains;
- (11) death associated with diagnostic or therapeutic procedures;
- (12) sudden death when the decedent was in apparent good health;
- (13) death within 24 hours of admission to a hospital or nursing home;
- (14) death in any public or private conveyance;
- (15) fetal death, as defined by section 202 of chapter 111, where the period of gestation has been 20 weeks or more, or where fetal weight is 350 grams or more;
- (16) death of children under the age of 18 years from any cause;
- (17) any person found dead;
- (18) death in any emergency treatment facility, medical walk-in center, day care center or under foster care; or
- (19) deaths occurring under such other circumstances as the chief medical examiner shall prescribe in regulations promulgated pursuant to the provisions of chapter 30A.

A physician, police officer, hospital administrator, licensed nurse, department of social services social worker or licensed funeral director who, having knowledge of such an unreported death within the commonwealth, fails to notify the office of the chief medical



examiner of such death shall be punished by a fine of not more than \$500. Such failure shall also be reported to the appropriate board of registration, where applicable.

Section 6. Upon notification of a death in the circumstances enumerated in section 5, the chief medical examiner or his designee shall carefully inquire into the cause and circumstances of the death. If, as a result of such inquiry, the chief medical examiner or such designee is of the opinion that the death was due to violence or other unnatural means or to natural causes that require further investigation, he shall take jurisdiction. The body of the deceased shall not be moved, and the scene where the body is located shall not be disturbed, until either the medical examiner or the district attorney or his representative either arrives at the scene or gives directions as to what shall be done at the scene. In such cases of unnatural or suspicious death where the district attorney's office is to be notified, the medical examiner shall not disturb the body or the scene without permission from the district attorney or his representative.

The medical examiner shall be responsible for making arrangements for transport of the body. The district attorney or his law enforcement representative shall direct and control the investigation of the death and shall coordinate the investigation with the office of the chief medical examiner and the police department within whose jurisdiction the death occurred. Either the medical examiner or the district attorney in the jurisdiction where death occurred may order an autopsy. Cases requiring autopsy shall be subject to the jurisdiction of the office for such purpose. As part of his investigation, the chief medical examiner or his designee may, in his discretion, notwithstanding any other provision of law, cause the body to be tested by the department of public health for the presence of any virus, disease, infection or syndrome which may pose a public health risk.

If the medical examiner is unable to respond and take charge of the body of the deceased in an expeditious manner, the chief of police of the city or town wherein the body lies, or his representative, may, after conferring with the appropriate district attorney, move the body to another location until a medical examiner is able to respond. Before moving the body the police shall document all facts relevant to the appearance, condition and position of the body and every fact and circumstance tending to show the cause and circumstances of death.

In carrying out the duties prescribed by this section, the chief medical examiner or his designee shall be entitled to review and receive copies of medical records, hospital records, or information which he deems relevant to establishing the cause and manner of death. No person or hospital shall be subject to liability of any nature for providing such records or information in good faith at the request of the office. The chief medical examiner shall notify the local district attorney of the death of a child immediately following receipt of a report that such a death occurred.

Section 7. If, after making inquiry pursuant to section 6, the medical examiner is of the opinion that death may have resulted from injuries sustained in a motor vehicle accident, and that the death occurred within 4 hours of such accident, that the deceased was the operator and sole occupant of the motor vehicle, and that no other individuals were involved in the accident, the medical examiner shall submit to the state police crime laboratory a sample of blood from the deceased in an amount sufficient for chemical analysis if it is obtainable at an autopsy. If such chemical analysis indicates the presence of a controlled substance or alcohol, such sample shall be preserved for no less than 120 days from the date the sample is taken to permit an independent analysis. Such independent analysis shall be done upon the written request and at the expense of the next of kin of the decedent. No independent analysis of blood performed after 60 days pursuant to this section shall be admissible as evidence of the level of alcohol or controlled substance in any legal proceeding. The medical examiner shall not be civilly or criminally liable for any action taken in compliance with this section.

Section 8. All law enforcement officers, district medical examiners, hospitals and other medical facilities and other state, county and local officials shall cooperate with the office of chief medical examiner in the investigation of medico-legal cases. The office of the chief medical examiner may use the services of the state police crime laboratory for the performance of tests, documentation of evidence, investigating procedures and consultation on special problems. The chief medical examiner, subject to appropriation, may establish and operate a pathology laboratory within the office of chief medical examiner to meet the needs of that office. If other services required by the office of chief medical examiner are not available in the state police crime laboratory, the chief medical examiner may employ the services of other appropriate laboratories.

Section 9. If skeletal remains are deemed likely to be Native American, the state archaeologist shall be informed and in turn shall notify the commission on Indian affairs, which shall cause a site evaluation to be made to determine if the place where said remains were found is a Native American burial site.

Section 10. If, during the course of investigation, the medical examiner is of the opinion that the death may have been caused by the act or negligence of another, he shall at once notify the district attorney within whose district the deceased was found or, if such act or negligence has occurred in a different district, the district attorney for such other district. He shall also make available to the district attorney any and all records pertaining to such investigation. He shall in all cases forthwith certify to the city or town clerk or registrar in the place where the deceased died, the name and address, if known, or otherwise a description as full as may be of the deceased, and the cause and manner of death. Notwithstanding any other provision of law, such certification may indicate that the death was caused by auto-immune deficiency syndrome.

In cases of homicide, after indictment and arraignment, and while the defendant is in custody or subject to the jurisdiction of the court, upon his request, a copy of the official autopsy report and a copy of the inquest report, if any, shall be made available to him by the district attorney in accordance with the provisions of the Massachusetts Rules of Criminal Procedure.

Section 11. The chief medical examiner or his designee may request the attorney general or the district attorney to direct that an inquest be held. The attorney general or district attorney may, regardless of whether or not action has been taken by the office of the chief medical examiner, require an inquest to be held in case of any death. The district court that has jurisdiction over the matter shall thereupon hold an inquest. The court shall give seasonable notice of the time and place of the inquest to the department of telecommunications and energy, in any case of death by accident upon a public conveyance regulated by said department, and to the registry of motor vehicles in any case of death in which any motor vehicle is involved. Such notice shall also be given to any parent, spouse or other member of the deceased's immediate family or to the deceased's legal representative or legal guardian.

Any person who has been identified by the attorney general or the district attorney, as the case may be, as the target of an investigation in connection with the death of the deceased may be present during the holding of such inquest and be represented by counsel, and may request leave of the court to present or examine witnesses, and shall at the completion of the court's report of said inquest have the right to examine said report; provided, however, that no indictment shall be dismissed nor shall any evidence be suppressed for violation of the provisions of this paragraph. All other persons not required by law to attend may be excluded from the inquest; provided, however, that the parents, guardian or next of kin of the person whose death is the subject of the inquest shall be deemed to

be interested persons who may be present during the holding of such inquest. The court may order, as it deems appropriate, that witnesses to be examined during the inquest be sequestered.

Section 12. If the court determines that the inquest relates to an accidental death upon a conveyance regulated by the department of telecommunications and energy, the court shall cause a transcript of the inquest proceedings, after review and written approval by the court, and the bill for such transcript, to be forwarded to said department within 30 days after the closing of the inquest proceedings, and, when made, a copy of the court's report on the inquest.

Section 13. The court shall report in writing when, where and by what means the person met his death, the person's name, if known, and all material circumstances attending the death, and the name, if known, of any person whose unlawful act or negligence appears to have contributed thereto. The court shall file its report and a transcript of the inquest proceedings in the superior court for the county in which the inquest is held. Said transcript shall be impounded until the district attorney files a certificate with the superior court indicating that he will not present the case to a grand jury, or files notice with the superior court that the grand jury has returned a true bill or a no bill after presentment by the district attorney.

Section 14. If a person charged by an inquest report with the commission of a crime is at large, the district court, upon the request of the district attorney, shall forthwith issue process for such person's arrest, returnable before any court or magistrate having jurisdiction.

Section 15. No embalming fluid, or any substitute therefor, shall be injected into the body of any person whose death is being investigated by the office until authorization from a representative of the office has first been obtained.

Section 16. After investigation or examination by the office, the body shall be released to the person with the proper legal authority to receive it, including the surviving spouse, the next of kin or any friend of the deceased, who shall have priority in the order named. If the body is unidentified or unclaimed after the investigation is completed, the medical examiner shall release it to the department of public welfare, which shall bury it in accordance with section 18 of chapter 117. Prior to the release of such unidentified or unclaimed body to the department of public welfare, the chief medical examiner or his designee shall certify to the city or town clerk in the municipality where the death occurred the facts of the death as required by section 9 of chapter 46. If further identifying information is developed, the chief medical examiner or his designee shall furnish a completed certificate of death, as required by said section 9, to the city or town clerk.

In cases where jurisdiction is declined by the office, medical examiners shall have no responsibility for the pronouncement or certification of death. Immediately after pronouncement of death, a physician licensed in the commonwealth who attended the decedent during the decedent's last illness, or his covering physician, or the licensed physician who has declared such person dead, or, if the death occurred in a hospital, a hospital medical officer duly authorized by the administrator, shall, in the order named, furnish for registration a standard certificate of death as required by said section 9. The chief medical examiner or his designee may allow any body to be moved without pronouncement if excessive hardship to the family of the decedent would otherwise result. The office may promulgate regulations further defining the circumstances in which a body may be moved without pronouncement of death. Any physician described herein who refuses to pronounce and certify death in accordance with said section 9 when jurisdiction has been declined by the office shall be subject to a fine of not more than \$500. Such refusal shall also be reported to the board of registration in medicine. The chief medical examiner or his designee may waive the requirements of this paragraph and assume jurisdiction for the purpose of certifying the facts of the death as required by said section 9 in cases where excessive hardship would otherwise result due to travel or in other emergency situations as may be defined by regulations promulgated by the office.

Section 17. A medical examiner or forensic investigator designated by the chief medical examiner shall, on payment of a fee as determined from time to time by the secretary of public safety, which shall be not less than \$75, view the body and make personal inquiry concerning the cause and manner of death of any person whose body is intended for cremation or burial at sea and shall authorize such cremation or burial at sea only when no further examination or judicial inquiry concerning such death is necessary. Said fee shall be paid by the person to whom such authorization for cremation or burial at sea is given. Cremation fees collected by the office of the chief medical examiner shall be utilized to support the comprehensive system of medico-legal investigative services delivered by the agency. District medical examiners employed on a fee-for-service basis will be compensated for performance of cremation views at a rate set by the secretary of public safety. Other medical examiners or forensic investigators performing cremation views will not receive additional compensation beyond their specified salaries.

Section 18. A medical examiner responding to the scene of a death shall take charge of any money or other personal property of the deceased found on or near the body, or may request the police department to do so. The medical examiner or police department shall, unless such money or property is required as evidence, deliver it to the person entitled to its custody or possession, or, if not claimed within 60 days, to a public administrator. A medical examiner or police officer who fraudulently refuses to deliver such property within 10 days after demand or who converts such property to his own use shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than 2 years.

SECTION 125. Chapter 28 of the General Laws is hereby repealed.

SECTION 126. Section 5A of chapter 28A of the General Laws is hereby repealed.

SECTION 127. Said section 1 of said chapter 29, as appearing in the 2000 Official Edition, is hereby further amended by striking out the definition of "Consolidated net surplus in the operating funds" and inserting in place thereof the following definition:—  
"Consolidated net surplus in the budgetary funds" the sum of the undesignated balances in the budgetary funds, except funds established by section 2H and section 2I.

SECTION 128. Section 2C½ of chapter 29 of the General Laws is hereby repealed.

SECTION 129. The second paragraph of section 2H of said chapter 29 as appearing in subsection A of section 13 of chapter 177 of the acts of 2001, is hereby amended by striking out, in line 2, the figure "10," and inserting in place thereof the following figure:— 15.

SECTION 130. Section 2J of said chapter 29 is hereby repealed.

SECTION 131. Section 2K of said chapter 29 is hereby repealed.

SECTION 132. Section 2P of said chapter 29 is hereby repealed.

SECTION 133. Section 2P½ of said chapter 29 is hereby repealed.

SECTION 134. Section 2R of said chapter 29 is hereby repealed.

SECTION 135. Section 2S of said chapter 29 is hereby repealed.

SECTION 136. Section 2T of said chapter 29 is hereby repealed.

SECTION 137. Section 2U of said chapter 29 is hereby repealed.

SECTION 138. Section 2Y of said chapter 29 is hereby repealed.

SECTION 139. Section 2AA of said chapter 29 is hereby repealed.

SECTION 140. Section 2BB of said chapter 29 is hereby repealed.

SECTION 141. Section 2CC of said chapter 29 is hereby repealed.

SECTION 142. Section 2EE of said chapter 29 is hereby repealed.

SECTION 143. Section 2FF of said chapter 29, as so appearing, is hereby amended by striking out, in lines 53 and 54, the words "24G of chapter 111" and inserting in place thereof the following words:- 10E of chapter 118E.

SECTION 144. The first paragraph of said section 2FF of said chapter 29, as so appearing, is hereby further amended by striking out clause (f).

SECTION 145. Section 2GG of said chapter 29 is hereby repealed.

SECTION 146. Section 2II of said chapter 29 is hereby repealed.

SECTION 147. Section 2KK of said chapter 29 is hereby repealed.

SECTION 148. Section 2LL of said chapter 29 is hereby repealed.

SECTION 149. Section 2MM of said chapter 29 is hereby repealed.

SECTION 150. Section 2NN of said chapter 29 is hereby repealed.

SECTION 151. Section 2OO of said chapter 29 is hereby repealed.

SECTION 152. Section 2SS of said chapter 29 is hereby repealed.

SECTION 153. Section 2UU of said chapter 29 is hereby repealed.

SECTION 154. Section 2VV of said chapter 29 is hereby repealed.

SECTION 155. Section 2WW of said chapter 29 is hereby repealed.

SECTION 156. Section 2XX of said chapter 29 is hereby repealed.

SECTION 157. Section 2YY of said chapter 29 is hereby repealed.

SECTION 158. Section 2BBB of said chapter 29 is hereby repealed.

SECTION 159. Section 2CCC of chapter 29 is hereby repealed.

SECTION 160. Section 2EEE of chapter 29 of the General Laws is hereby repealed.

SECTION 161. Said chapter 29 is hereby further amended by striking out section 3A and inserting in place thereof the following section:—

Section 3A. Any officer having charge of any state agency which receives a periodic appropriation from the commonwealth, or any officer of a state authority or commission, shall upon the request of any standing committee of the house or senate, or of any joint standing committee of the general court, furnish in writing to such committee, in a format prescribed by such committee, any information requested by such committee that is necessary for the committee to perform its duties. The information shall include, but not be limited to, historical, current or proposed operational costs funded through either appropriation, capital accounts, federal grants, trust funds or other funding sources, the officer's estimate of the cost of proposed legislation affecting activities which are or would be under his supervision, estimates of and reasons for any supplemental funding that is projected to be needed during the fiscal year,

estimates of revenue collections, estimates of proposed changes in fees or taxes, and any other such information as may be required by the committee. Such estimates shall be provided to such committee within 10 days of the receipt of such a request by the officer. If the officer fails to respond within these 10 days, the matter shall be referred to the house or senate committee on post audit and oversight which shall, in conjunction with the committee that originally requested the information, determine if further action is necessary.

SECTION 162. Chapter 29 of the General Laws is hereby amended by inserting after section 2KKK, inserted by section 4 of chapter 4 of the acts of 2003, the following section:—

Section 2LLL. There is hereby established and set up on the books of the commonwealth a separate fund to be known as the Firearms Fingerprint Identity Verification Trust Fund. Amounts credited to such fund shall be available, without further appropriation, to the department of state police for the purposes of financing fingerprint identification verifications with the fingerprint records maintained by the Federal Bureau of Investigations or any other federal agency for the verification of firearms license applicant identities. \$25 of the fee assessed under sections 122, 122B, 129B, 131, 131A, 131F, and 131H of chapter 140 of the General Laws shall be deposited into the fund. The funds shall be utilized for the sole purpose of making payments charged to the department by the Federal Bureau of Investigations or other entity for fingerprint identification verification.

SECTION 163. Section 5B of said chapter 29, is hereby further amended by striking the last paragraph, as amended by section 42 of chapter 184 of the acts of 2002, and inserting in place thereof the following paragraph:—

On or before January 15, the commissioner shall meet with the house and senate committees on ways and means and shall jointly develop a consensus tax revenue forecast for the budget for the ensuing fiscal year which shall be agreed to by the commissioner and said committees. In developing such a consensus tax revenue forecast, the commissioner and said committees, or subcommittees of said committees, are hereby authorized to hold joint hearings on the economy of the commonwealth and its impact on tax revenue forecasts; provided, however, that in the first year of the term of office of a governor who has not served in the preceding year, said parties shall agree to the consensus tax revenue forecast not later than January 31 of said year. Said estimate shall be net of the amount necessary to transfer, from the General Fund to the Commonwealth's Pension Liability Fund, which would fully fund the system according to the schedule established pursuant to paragraph (1) of section 22C of chapter 32. Said consensus tax estimate shall also include an estimate of taxes collected pursuant to chapter 62 for capital gain income, as defined therein. The department of revenue shall report on a monthly basis to the house and senate committees on ways and means and the joint committee on taxation the amount of revenues estimated to be collected in that month from capital gains income. Said consensus tax revenue forecast shall be included in a joint resolution and placed before the members of the general court for their consideration. Such joint resolution, if passed by both branches of the general court, shall establish the maximum amount of tax revenue which may be considered for the general appropriation act for the ensuing fiscal year.

SECTION 164. Said chapter 29 is hereby amended by striking out section 5C, as amended by section 13 of chapter 177 of the acts of 2001, and inserting in place thereof the following section:—

Section 5C. The comptroller shall annually, on or before October 31, certify to the commissioner of administration the amount of the consolidated net surplus in the budgetary funds at the close of the preceding fiscal year. The amounts so certified shall be disposed as follows:

(a) an amount equal to  $\frac{1}{2}$  of 1 per cent of the total revenue from taxes in the preceding fiscal year shall be available to be used as revenue for the current fiscal year.

(b) any remaining amount of such consolidated net surplus after amounts made available in clause (a) shall be transferred to the Stabilization Fund; and

(c) all transfers specified in this section shall be made from the undesignated fund balances in the budgetary funds proportionally from said undesignated fund balances provided that no such transfer shall cause a deficit in any of said funds.

SECTION 165. Section 5C of chapter 29 of the General Laws, as amended by section 161, is hereby further amended by striking out clause (a) and inserting in place thereof the following clause:—

(a) an amount equal to  $\frac{1}{2}$  of 1 per cent of the total revenue from taxes in the preceding fiscal year shall be available to be used as revenue for the current fiscal year and  $\frac{1}{2}$  of 1 per cent of the total revenue from taxes in the preceding fiscal year shall be transferred to the Stabilization Fund.

SECTION 166. Section 9A of chapter 29 of the General Laws is hereby repealed.

SECTION 167. Said chapter 29 of the General Laws is hereby further amended by striking out section 9C, as amended by section 3 of chapter 1 of the acts of 2003, and inserting in place thereof the following section:—

Section 9C. Whenever, in the opinion of the commissioner of administration, available revenues as determined by him from time to time during any fiscal year under section 5B will be insufficient to meet all of the expenditures authorized to be made from any fund, whether by appropriation or distribution, he shall within 5 days notify in writing the governor and the house and senate committees on ways and means of the amount of such probable deficiency of revenue and the governor shall, within 15 days after such notification, reduce allotments under section 9B, and submit in writing a report stating the reason for and effect of such reductions, or submit to the general court specific proposals to raise additional revenues by a total amount equal to such deficiency. Any action challenging the legality of an allotment reduction pursuant to this section shall be commenced in the supreme judicial court for Suffolk county.

Whenever the governor reduces allotments under the preceding paragraph, the governor shall notify the house and senate committees on ways and means in writing 15 days before any alterations to the original allotment reduction plan. Any alterations to the original allotment reduction plan that would seek to increase an allotment must provide an equal reduction in other allotments or propose to raise additional revenues to total the amount of the allotment increase.

As an alternative to the submission of such proposals to raise additional revenues and to the extent funds are available, the governor may recommend an appropriation equal to such deficiency from the Commonwealth Stabilization Fund in the manner provided in section 2H.

SECTION 168. Chapter 119 of the General Laws is hereby amended by striking out section 29A, as appearing in the 2000 Official Edition, and inserting in place thereof the following section:—

Section 29A. The parents of an unemancipated minor shall be liable for such reasonable legal fees and expenses of an attorney representing the minor in criminal proceedings. Except where the parent is the alleged victim, the court shall determine whether the parent or guardian of an unemancipated minor is indigent. If the parent or guardian is not determined to be indigent, the court shall assess a \$300 fee against the parent or guardian to pay for the cost of any attorney that is supplied by the committee for public counsel services or assigned to represent the minor by the court and paid out of public funds in the criminal proceedings. If the parent is determined to be indigent but is still able to contribute toward the payment of some of the costs, the court shall order the parent to pay a reasonable amount toward the cost of appointed counsel. This section shall not apply to a parent who, as a result of a decree of a court of competent jurisdiction, does not have custody of the minor.

SECTION 169. Section 39F of said chapter 119, as so appearing, is hereby amended by striking out the second sentence and inserting in place thereof the following 3 sentences:— The court shall determine whether the parent or guardian of a child alleged to be in need of services is indigent. If the court determines that the parent or guardian is not indigent, the court shall assess a \$300 fee against the parent or guardian to pay for the cost of appointed counsel. If the parent is determined to be indigent but is still able to contribute toward the payment of some of said costs, the court shall order the parent to pay a reasonable amount toward the cost of appointed counsel.

SECTION 170. Section 29F of chapter 29 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the word “safety;”, in line 70, the following words:— or (ix) repeated or aggravated violation of any state or federal law protecting the environment.

SECTION 171. Said section 29F of said chapter 29, as so appearing, is hereby further amended by inserting after the word “safety”, in line 82, the following words:— or environmental.

SECTION 172. Section 1 of chapter 30 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 6, the words “, the metropolitan district commission.”.

SECTION 173. Chapter 30 of the General Laws is hereby amended by adding the following section:—

Section 65. (a) A lawyer who is not a regular state employee or person who is compensated through the automated payroll system of the commonwealth shall not provide legal services for the commonwealth, or for any department, agency, board or commission thereof, unless and until:

(1) the governor’s chief legal counsel certifies in writing that no state employee can provide the legal services that the lawyer is to provide;

(2) a written request for the legal services that the lawyer is to provide is made publicly available for competitive bidding, in a manner provided by regulations of the state purchasing agent, and approved by the comptroller; provided, however, that this clause shall not apply if a department, agency, board or commission of the commonwealth is in a situation or condition that requires the immediate provision of legal services, and such a situation or condition is described and certified in writing by the governor’s chief legal counsel in advance of the purchase of legal services by said department, agency, board or commission; and

(3) the office of the attorney general has been consulted during the procurement process, in a manner provided by said regulations of the state purchasing agent, and has determined, following a review of the legal services contract, that any attorney hired by a department, agency, board or commission of the commonwealth is a member in good standing of the Massachusetts Bar or an out of state bar and has no apparent conflict of interests. If said attorney will be providing litigation services, the attorney general will ensure that said attorney will appear in court on behalf of the commonwealth only after his appointment as a special assistant attorney general.

(b) The secretary of administration and finance, with the comptroller’s assistance, shall make a written semiannual report of expenditures for legal services for the commonwealth, or for any department, agency, board or commission thereof, provided other than by regular state employees. The report shall show the name of each lawyer, law firm if any, amount expended, the billing rate or fee arrangement and a brief statement of the legal services provided. The report shall be made to the house and senate committees on ways and means and the joint committee on state administration, not later than September 1 each year for the period from January 1 to June 30 of that year, and not later than March 1 each year for the period from July 1 to December 31 of the preceding year.

(c) Instead of making the certificate under clause (1) of subsection (a), the governor’s chief legal counsel may, upon written request by the head of any department, agency, board or commission, assign a lawyer who is a state employee in another department, agency, board or commission, with the written approval of the head thereof, to provide specific legal services for the requesting department, agency, board or commission, for a period not exceeding 3 months but subject to renewal. Such an assignment shall be subject to any applicable collective bargaining agreement. The certification required of the comptroller by the fourth paragraph of section 31 of chapter 29 shall not be required in instances of such an assignment by the governor’s chief legal counsel.

(d) This section shall apply only to legal services provided under contract with the governor or with an officer, department, agency, board or commission serving under the governor or within one of the executive offices headed by a secretary appointed by the governor.

SECTION 174. Section 62 of chapter 31 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 33, the words “or the metropolitan district commission”.

SECTION 175. Subsection (1) of section 5 of chapter 32 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out paragraph (e).

SECTION 176. The first paragraph of subsection (1) of section 22C of chapter 32 of the General Laws, as most recently amended by section 5 of chapter 46 of the acts of 2002, is hereby further amended by striking the first sentence and inserting in place thereof the following:—

In each fiscal year, there shall be transferred from the General Fund by the comptroller, without further appropriation, to the Commonwealth's Pension Liability Fund the amount necessary to fully fund the system as determined by the schedule set forth in this section, including, without limitation, the amounts required under section 104. The comptroller may make such transfer in increments during the fiscal year as he deems appropriate to meet the cash flow needs of the commonwealth.

SECTION 177. Said subsection (1) of said section 22C of said chapter 32, as most recently amended by section 5 of said chapter 46, is hereby further amended by inserting after the word "appropriations", in line 47, the following words:- ,or transfers.

SECTION 178. The second paragraph of said subsection (1) of said section 22C of said chapter 32, as amended by section 4 of chapter 118 of the acts of 2002, is hereby further amended by striking the last sentence and inserting in place thereof the following sentence:- If said schedule is not so approved such payments or transfers shall be made in accordance with the most recent three year actuarial valuation which was so approved; provided, that such payments shall be an amount which is not less than the then previous year's appropriations, or transfers.

SECTION 179. The last paragraph of subsection (1) of section 22C of chapter 32 of the General Laws, added by section 17 of chapter 177 of the acts of 2001, is hereby amended by inserting after the word "appropriations", in line 2, the following words:- or transfers.

SECTION 180. Chapter 38 of the General Laws is hereby repealed.

SECTION 181. Section 20 of chapter 40B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 41, the words "the metropolitan district commission".

SECTION 182. Section 24 of said chapter 40B, as so appearing, is hereby amended by striking out, in lines 18 and 19, the words "the commissioner of environmental management,".

SECTION 183. Said section 4E of said chapter 40J, as so appearing, is hereby further amended by adding the following subsection:—

(I) Notwithstanding any general or special law to the contrary, including without limitation any laws related to the procurement of electricity, and subject to this paragraph, the board shall, upon the written request of the governor, to transfer moneys in the fund, in an amount not exceeding \$17 million in the aggregate, to the commonwealth for deposit in the General Fund. As a condition precedent to any such transfer, the commonwealth, acting by and through the division of energy resources or any successor agency, shall enter into an agreement with the corporation under which the commonwealth, at the direction of the corporation, shall enter into 1 or more contracts, for terms not to exceed 20 years, with owners of facilities that generate electricity using renewable energy technologies, or with wholesale power marketers or other market intermediaries selling such electricity, for the purchase by the commonwealth, for its own use or for the use of any municipal electric department, public instrumentality or other governmental or nongovernmental entity in the commonwealth, of electricity produced by renewable energy technologies. The corporation shall determine the particular type or types of technologies which shall be the subject of any such contract based on such criteria as it shall deem advisable, including without limitation retail consumer choices of such renewable energy technologies. The aggregate dollar amount of the green power premium associated with electricity purchases to be made by the commonwealth for its own use under such contracts shall have a present value, determined according to such discount rate as shall be mutually agreeable to the corporation and the commonwealth, of such amount as shall be transferred pursuant to the first sentence of this paragraph. The green power premium shall be determined by subtracting from the total amount of the purchase price the undifferentiated commodity price for electricity under then-current commonwealth contracts. No payments shall be required from the commonwealth pursuant to any such contract prior to the fiscal year ending June 30, 2005, and the maximum payment in any 1 fiscal year under all such contracts shall not exceed \$5 million. The commonwealth shall be indemnified under such contracts by said owners or power marketers on such terms as the corporation shall deem commercially reasonable. The amounts collected under section 20 of chapter 25 are impressed with a trust for the benefit of the fund and, to facilitate the purchase by the corporation of electricity produced by renewable energy technologies or the purchase of certificates produced pursuant to the renewable energy portfolio standard regulations of the division of energy resources representing the generation attributes of electrical energy produced by renewable energy technologies, and in consideration of the sale of such electricity or certificates, the commonwealth covenants with the sellers of such electricity or certificates that the amounts collected under said section 20 will not be diverted from the fund and that the rates of the mandatory charges pursuant to said section 20 will not be reduced during the term, which shall not exceed twenty years, of any contract entered into by the corporation for the purchase of such electricity or certificates below a level which will enable the corporation to fulfill the terms of such contracts. In furtherance of the public purposes of the fund, income derived from the investment of amounts collected under section 20 shall be expended by the corporation as provided in subsection (a) and, in the discretion of the corporation, in furtherance of the public purposes of the corporation and for such costs of departments and agencies of the commonwealth that support or are otherwise consistent with the purposes of the fund.

SECTION 184. Section 8 of chapter 40N, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 69 and 70, the words "department or commission" and inserting in place thereof the following word:— departments.

SECTION 185. Chapter 41 of the General Laws, as so appearing, is hereby amended by striking out section 108L and inserting in place thereof the following section:—

Section 108L. There is hereby established a career incentive pay program offering base salary increases to regular full-time members of the various city and town police departments, uniformed members of the department of state police appointed under section 10 of chapter 22C of the General Laws and state police detectives appointed under said section 10, as a reward for furthering their education in the field of criminal justice.

Only graduates of criminal justice or law enforcement programs that meet or exceed the guidelines for criminal justice and law enforcement programs as set forth by the board of higher education shall be eligible for the police career incentive pay program. Any

degree programs pursued for police career incentive pay increases shall require the submission of a letter of intent to the chancellor of the board of higher education to seek approval as a police career incentive pay program. The president of a New England association of schools and colleges-accredited institution or a board of higher education-approved institution with an approved criminal justice or law enforcement program shall submit a letter of intent to the chancellor of the board of higher education indicating the institution's intent to seek approval of a criminal justice degree program during the first year of the implementation of the guidelines. The letter of intent shall include a statement of commitment to implement guidelines for criminal justice and law enforcement programs.

Any application to seek approval as a police career incentive pay program participating institution shall include the following: (1) a profile of the program, (2) a self-assessment of the program, and (3) an application fee to cover the evaluation costs of the review process.

Each institution shall pay an evaluation fee to the board of higher education's police career incentive pay program quality assurance trust fund to cover the costs of review of a program. In addition to the fee, the institution shall pay for travel, room, board and other normal expenses of the external evaluation committee. If the committee requires subsequent visits, the board of higher education shall charge for further expenses at its discretion. Evaluation fees will be determined by the total number of degrees awarded to all students enrolled in the criminal justice and law enforcement program being reviewed based on an average of the 3 years immediately before the submission of the application. Fees shall be set in the following manner: \$1000 for a degree program with an average enrollment of not more than 20 students per year, \$1500 for a degree program with an average enrollment between 20 and 50 students per year, \$2000 for a degree program with an average enrollment between 51 and 100 students per year, \$2500 for a degree program with an average enrollment between 101 and 150 students per year, \$3000 for a degree program with an average enrollment between 151 and 200 students per year, and \$3500 for a degree program with an average enrollment above 200 students per year.

Once an application is submitted, the following timetable shall apply: (1) not more than 30 business days after application submission, the board of higher education shall determine whether or not the application is complete and notify the institution; (2) not more than 30 business days after notification, the board of higher education shall appoint an external evaluation committee in accordance with the guidelines for criminal justice and law enforcement academic programs, set forth by the board; (3) not more than 30 business days after committee appointment, said committee shall submit a report to the board of higher education staff; (4) not more than 30 business days after receipt of the report by the board of higher education, the committee's final report shall be sent to the institution for a response; and (5) not more than 30 days after receiving the institution's response, the staff of the board of higher education shall evaluate materials submitted by the institution, the committee's written report, the written response by the institution and any additional information submitted by the institution, and based on its review, the board staff shall make a recommendation to the board for deferral, approval or disapproval. If the board recommends disapproval, the board shall provide a statement of reasons for the decision.

Programs approved by the board of higher education shall be included on an approved program list for 5 years. The institutions shall annually submit a status report on their approved programs to the board. Programs receiving deferrals from the board shall be notified of specific conditions that must be met and a timetable for coming into compliance. Programs not approved by the board may not re-apply for at least 1 calendar year following the board's determination.

When, in the judgment of the board staff, a review or inspection of a degree program is necessary, the board, in conjunction with the applicant institution, shall select and appoint an external evaluation committee to serve in the following manner: (1) The committee shall review the materials submitted by the program, shall, under most circumstances, visit the institution and shall submit a report to the board containing recommendations regarding the program's request for approval. (2) The number of reviewers on the committee shall be determined by size, number and level of program being reviewed and shall in no instance include fewer than 2 academicians. (3) To be eligible to serve as an evaluator, individuals shall have earned at least a master's degree in criminal justice or a closely related discipline. Academic team members shall have professional experience in college-level teaching, research, administration or other relevant activities with institutions of higher education. Practitioners shall have at least 5 years of full-time supervisory and/or administrative experience as criminal justice practitioners, as well as specific knowledge of, or experience in, criminal justice education. (4) No person shall serve as an evaluator who is employed by an institution deemed by the board to be in direct competition with the institution under review. (5) No person shall serve as an evaluator who has a present official or unofficial connection with the institution under review or has had such a connection within the previous 4 years, or who the board has reason to believe has an independent or pecuniary interest in the outcome of the board's final action. External evaluators shall have a disinterested professional commitment to the task of rendering objective findings and recommendations based upon empirical evidence and informed judgments. (6) Each committee shall have a chair who shall be responsible for providing leadership to the committee, for being the committee's liaison with the institution and for preparing the committee's report with the other committee members. (7) The committee shall submit a written report, including recommendations to the board. Board staff shall forward a copy of the report to the institution to correct factual errors and respond to the content and recommendations within said report. (8) Evaluators will be given an honorarium by the board of higher education in addition to the evaluation fee and the evaluators' expenses. (9) Evaluators will be provided an orientation prior to conducting reviews.

Annually, each approved institution shall submit two copies of a report to the board reviewing the status of the institution's criminal justice and law enforcement program(s). This report shall certify that the criminal justice program is being maintained and operated in accordance with the provisions and guidelines set forth by the board of higher education for criminal justice and law enforcement programs. If, at any time, in the judgment of the board staff, there is a reasonable probability of non-compliance with the board's guidelines by a particular institution, the board may review said institution to determine if continued approval of said institution is proper.

An institution that objects to an adverse decision may appeal the board's determination. Said appeal shall be heard by a review panel appointed by the board of higher education and the findings and recommendations of the panel will be received by the board.

With the implementation of the guidelines for criminal justice and law enforcement programs, as approved by the board of higher education, said board shall certify career incentive pay increases only for graduates of New England Association of School and Colleges-accredited or board-approved law schools who have passed the Massachusetts bar examination.

Career incentive bonuses authorized by this section for degrees attained from programs approved by the board of higher education shall be granted annually in the following manner: \$6,000 for an associate's degree; \$7,500 for a baccalaureate degree; and \$8,500 for a master's degree or a law degree.

Any city or town which accepts this section and provides annual career incentive bonus payments for police officers shall be reimbursed by the commonwealth for one-half the cost of such payments upon certification by the board of higher education. A city or

town which accepts the provisions of this section after August 1, 2002, however, and provides annual career incentive bonus payments for police officers, shall not be reimbursed by the commonwealth for the Commonwealth's share of those payments for any fiscal year before 2006. The board of higher education shall certify the amount of such reimbursement to be paid to such city or town police department of similar rank. Said information shall be filed with said board on or before September first of each year, on a form furnished by said board. The board of higher education shall also certify the amount of annual career incentive bonus payments to be allocated to the members of the department of state police appointed under section 10 of chapter 22C from information filed with said board on or before September first of each year by the colonel of state police. This information shall be filed on a form to be furnished by the board of higher education.

Notwithstanding any provision of this section to the contrary, police officers and members of the department of state police appointed under section 10 of chapter 22C of the General Laws and state police detectives appointed under said section 10, who have attained their degree pursuant to this section before January 1, 2004, irrespective of the date of certification of their eligibility for annual career incentive bonus payments under this section by the board of higher education and including those who transfer to any other city or town that has accepted this section, shall upon certification be paid career incentive bonuses pursuant to the provisions of this section in effect before January 1, 2004.

SECTION 186. Section 72 of chapter 44 of the General Laws, as so appearing, is hereby amended by inserting after the word "commission", in line 59, the following words:— , charter school.

SECTION 187. Section 13 of chapter 58 of the General Laws, as so appearing, is hereby amended by striking out, in line 36, the words "environmental management" and inserting in place thereof the following words:— conservation and recreation.

SECTION 188. Section 17C of said chapter 58, as so appearing, is hereby amended by striking out, in line 8, the words "metropolitan district commission and".

SECTION 189. Section 18D of said chapter 58, as so appearing, is hereby amended by striking out the words "one quarter of one", in line 6, and inserting in place thereof the following figure:— .35.

SECTION 190. Section 5 of chapter 59 of the General Laws, as so appearing, is hereby amended by striking out, in lines 1191 to 1194, inclusive, the words "director of the division of water pollution control in the department of environmental management or the director of the air pollution control agency in the commonwealth, as the case may be," and inserting in place thereof the following words:— department of environmental protection.

SECTION 191. Section 5D of said chapter 59, as so appearing, is hereby amended by striking out, in lines 17 and 18, and in line 34, each time it appears, the word "commission" and inserting in place thereof, in each instance, the following word:— department.

SECTION 192. Section 20A of said chapter 59, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "including the metropolitan district commission,".

SECTION 193. Section 26 of said chapter 62C, as appearing in the 2000 Official Edition, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:

(c) In the case of an arithmetic or clerical error or other obvious error, including any exclusion of taxable unemployment compensation or Massachusetts state lottery winnings, apparent either upon the face of the return or from a comparison of the return with any records pertaining to the taxpayer's liability or payment thereof, which are maintained by the commissioner or furnished to the commissioner from any third party source, the commissioner may assess a deficiency attributable to such error without giving notice to the person being assessed. The commissioner may make such corrections to errors found upon a taxpayer's return and to the amount shown as the tax assessed thereon, including an increase in tax due or a reduction in a refund claimed, as will cause the return to conform with any records pertaining to the taxpayer's liability or payment thereof, which are maintained by the commissioner or furnished to the commissioner by any third-party. Concurrently with the making of such corrections, the commissioner shall notify the taxpayer in writing of the changes made to the return. If within 30 days after the date of such notice, or within any extended period permitted by the commissioner, the taxpayer fails to challenge the corrections, the return as corrected shall constitute the taxpayer's amended self-assessed return and the commissioner shall not be required to assess the corrected tax, nor to provide the taxpayer with a notice of intention to assess, nor otherwise to send any notice of the corrected tax liability to the taxpayer. Any taxpayer that disagrees with corrections made by the commissioner's corrections under this subsection shall challenge them in writing within 30 days after the date of the commissioner's notice, or within any extended period permitted by the commissioner. Once so challenged, the commissioner shall be required to assess any additional tax not shown on the original return in accordance with subsection (b) and shall comply with subsection (e) of section 32 if the commissioner's initial corrections to the return resulted in the reduction or elimination of a refund claimed on the return by the taxpayer.

SECTION 194. Section 37 of chapter 62C of the General Laws, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:—

The applicant shall, at the time of filing its abatement application, include and attach to it all supporting information, documents, explanations, arguments and authorities that will reasonably enable the commissioner to determine whether the applicant is entitled to the abatement requested. The applicant shall not be considered to have submitted a completed written abatement application until the date on which all such information reasonably requested from the applicant and reasonably necessary for a decision has been furnished to the commissioner. If the commissioner has made a written request to the applicant for additional information, not then contained in the taxpayer's pending abatement application, and the applicant fails to provide such information within 30 days after such request, or within any extended period allowed by the commissioner, that application shall be considered incomplete and shall be denied without prejudice to its timely renewal. The commissioner shall give such applicant written notice that the denial is based upon the lack of sufficient information to grant the taxpayer's abatement application. In a case in which the commissioner has denied an



abatement application based upon incomplete supporting information, no interest under section 40 shall begin to accrue upon any such claim which is appealed to the appellate tax board or to a probate court under section 39 before the date on which a decision on such claim on the merits is rendered by the board or court in favor of the taxpayer.

SECTION 195. Said section 37 of said chapter 62C, as so appearing, is hereby further amended by inserting, after the words “his application”, in line 15, the following words:— if the applicant has not already had a pre-assessment hearing under subsection (b) of section 26; unless the applicant first establishes to the satisfaction of the commissioner that a further hearing is necessary either due to the availability of new factual information or new legal precedent not available to the applicant at the time of the conference permitted under subsection (b) of said section.

SECTION 196. Section 40 of said chapter 62C is hereby amended by striking out, in lines 6 and 7, as so appearing, the words “established under section thirty-two of this chapter” and inserting in place thereof the following words:— of the federal short-term rate determined under section 6621(b) of the Internal Revenue Code, as amended and in effect for the taxable year, plus 2 percentage points, computed as simple interest.

SECTION 197. Subsection (a) of said section 40 of said chapter 62C, as so appearing, is hereby amended by inserting, at the end thereof, the following paragraphs:-  
For purposes of this section, the term ‘date of overpayment’ shall mean the later of the date when the commissioner shall have received a properly completed return and full payment of the tax due thereon, or the date when the commissioner shall have received a completed and substantiated written application for abatement filed in accordance with this chapter, and any supplemental information requested by the department from the taxpayer in support of such application.

SECTION 198. The second paragraph of subsection (b) of said section 40 of said chapter 62C, as so appearing, is hereby amended by inserting after the word “return”, in lines 40 and 41, the following words:— as compared with the tax liability shown as a result of any corrections made to the return by the commissioner under subsection (c) of section 26 using any records regarding that liability or the payment thereof which are maintained by the commissioner or which are furnished to the commissioner by any third-party.

SECTION 199. Section 1 of chapter 62D of the General Laws, is hereby further amended by striking out the definition of “debt”, as appearing in section 3 of chapter 9 of the acts of 2003, and inserting in place thereof the following:—  
“Debt”, an unpaid spousal or child support obligation which is being enforced by the claimant agency, or which is collected or ordered to be collected by a court, whether or not there is an outstanding judgment for the sum; an amount owed the division of medical assistance by a debtor; an amount owed the department of transitional assistance by recipients, or former recipients, of public assistance; any liquidated sum due and owing to the corporation on an education loan made under any of the programs administered by the corporation in behalf of the commonwealth whether or not there is an outstanding judgment for that sum or any liquidated sum, certified by the comptroller as due and owing to any state agency, as defined in section 1 of chapter 29, any overdue debt certified by the comptroller as due or owing to a city or town of the commonwealth or any agency of the city or town or any housing authority or any state authority as defined in said section 1 of said chapter 29, or an amount owed the division of health care finance and policy on behalf of the uncompensated care pool by a person or a guarantor of a person who received free care services paid for in whole or in part by the uncompensated care pool or on whose behalf the uncompensated care pool paid for emergency bad debt, pursuant to subsection (m) of section 18 of chapter 118G.

SECTION 200. Said section 1 of said chapter 62D is hereby further amended by striking out the definition of “debtor”, as appearing in section 4 of said chapter 9 of the acts of 2003, and inserting in place thereof the following:—  
“Debtor”, any individual owing money for support payments to the claimant agency or to persons for whom the claimant agency is providing enforcement services under state and federal law; any individual owing money to the division of medical assistance for costs incurred as a result of noncompliance by that individual with an order to provide coverage for the cost of health services to a child eligible for assistance under Title XIX of the Social Security Act, as further described in section 23 of chapter 118E; any individual owing money to the division of employment and training; any individual owing money to the department of transitional assistance for overpayments of public assistance; any individual owing money on an education loan to the corporation or any individual or entity owing a debt as defined herein, which obligation has not been adjudged satisfied by court order, set aside by court order, or discharged in bankruptcy; or any individual owing the Uncompensated Care Trust Fund administered by the division of health care finance and policy for the cost of free care services or emergency bad debt paid for in whole or in part by the uncompensated care pool, pursuant to subsection (m) of section 18 of chapter 118G.

SECTION 201. The definition of “Debt” in said section 1 of said chapter 62D, as so appearing, is hereby further amended by adding the following sentence:— For the purpose of this section an agency of a city or town shall include a housing authority created pursuant to section 3 or 3A of chapter 121B.

SECTION 202. Clause (ix) of section 13 of said chapter 62D, as appearing in section 6 of said chapter 9 of the acts of 2003, is hereby amended by inserting after the words “agency of a city or town” the following words:— , to a housing authority.

SECTION 203. Section 6A of chapter 62F of the General Laws, inserted by section 71 of said chapter 184, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:-

For any fiscal year when expenditure from the Commonwealth Stabilization Fund is required to pay expenses of the Commonwealth, the comptroller shall reimburse the Commonwealth Stabilization Fund from the temporary holding fund the amount of all such appropriations from the Commonwealth Stabilization Fund, provided that said reimbursement shall not exceed the balance in the temporary holding fund. Any funds remaining in the temporary holding fund at the end of the fiscal year shall be transferred to the General Fund and shall be part of the consolidated net surplus certified by the comptroller pursuant to section 5C of chapter 29.

SECTION 204. Section 30 of chapter 63 of the General Laws is hereby amended by striking out paragraphs 1 and 2, as amended by section 13 of chapter 4 of the acts of 2003, and inserting in place thereof the following 2 paragraphs:—

1. “Domestic corporations”, (i) a corporation organized under or subject to chapter 156, chapter 156A, chapter 156B or chapter 180 which has privileges, powers, rights or immunities not possessed by individuals or partnerships; (ii) a mutual holding company subject to chapter 167H or sections 19F to 19W, inclusive, of chapter 175; or (iii) a limited liability company formed under chapter 156C which has more than 1 member which limited liability company is not classified for the taxable year as a partnership for federal income tax purposes or which has only 1 member and has elected for the taxable year to be classified for federal income tax purposes as a corporation separate from its member; provided, however, that the term shall not apply to a corporation organized under section 10 of chapter 157, a domestic manufacturing corporation as defined in section 38C, a corporation that qualifies as a regulated investment company under section 851 of the federal Internal Revenue Code, as amended and in effect for the taxable year, nor to a corporation exempt from taxation under section 501 of the Code, as amended and in effect for the taxable year, nor to a corporation subject to paragraph 2. A limited liability company having as its sole member a domestic corporation that is not a federal S corporation, as defined in section 1361 of the Code, as amended and in effect for the taxable year, which limited liability company is not treated as a separate taxable entity for federal income tax purposes, shall not be separately taxed under this chapter but shall be treated as a branch or division of its domestic corporation member; but any limited liability company or any other entity that makes a federal election to be disregarded as an entity separate from its sole member and has, as its sole member, an S corporation for federal income tax purposes, shall be separately taxed under this chapter as an S corporation.

2. “Foreign corporation”, corporation, association or organization established, organized or chartered under laws other than those of the commonwealth, for purposes for which domestic corporations may be organized under chapter 156, chapter 156A, chapter 156B or sections 19F to 19W, inclusive, of chapter 175 or chapter 180 which has privileges, powers, rights or immunities not possessed by individuals or partnerships; provided, however, that the term shall not apply to a corporation, association or organization without capital stock which is subject to taxation under section 18 of chapter 157, to a foreign manufacturing corporation as defined in section 42B, to a corporation, association or organization that qualifies as a regulated investment company under section 851 of the federal Internal Revenue Code, as amended and in effect for the taxable year, to a corporation, association or organization which is exempt from taxation under section 501 of the Code, as amended and in effect for the taxable year, nor to a corporation, association or organization subject to tax under paragraph 1; provided further, that the terms shall apply to a foreign limited liability company as defined in section 2 of chapter 156C, which has more than 1 member and is not classified for the taxable year as a partnership for federal income tax purposes or which has only 1 member and has elected to be classified as a corporation separate from its member for federal income tax purposes. A limited liability company having as its sole member a foreign corporation that is not a federal S corporation, as defined in section 1361 of the Code, as amended and in effect for the taxable year, which limited liability company is not treated as a separate taxable entity for federal income tax purposes, shall not be separately taxed under this chapter but shall be treated as a branch or division of its foreign corporation member; provided, however, that any foreign limited liability company or any other entity that makes a federal election to be disregarded as an entity separate from its sole member and has, as its sole member, an S corporation for federal income tax purposes, shall be separately taxed under this chapter as a foreign S corporation.

SECTION 205. Section 31A of chapter 63 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out paragraph (k) and inserting in place thereof the following paragraph:—

(k) The provisions of paragraphs (a) and (f) shall not be available for the taxable years ending on or after December 31, 1993 but shall be available for the taxable years beginning on or after January 1, 2009.

SECTION 206. Said section 31A of said chapter 63, as so appearing, is hereby further amended by striking out paragraph (l) and inserting in place thereof the following paragraph:—

(l) The provisions of paragraphs (i) and (j) shall be available only for the taxable years ending on or after December 31, 1993, but shall not be available for the taxable years beginning on or after January 1, 2009; provided, however, that a corporation shall not be eligible for said credit for more than nineteen taxable years.

SECTION 207. Section 17D of said chapter 66 is hereby amended by striking out, in line 2, as so appearing, the words “fisheries, wildlife and recreational vehicles” and inserting in place thereof the following words:—fish and game.

SECTION 208. The first sentence of section 13 of chapter 70B of the General Laws, as amended by section 80 of chapter 184 of the acts of 2002, is hereby further amended by striking out the words “shall not exceed 7 years” and inserting in place thereof the following words:— shall not exceed 10 years.

SECTION 209. Section 4 of Chapter 71A, as most recently amended by section 1 of Chapter 386 of the Acts of 2002, is hereby further amended by striking the second sentence and inserting in place thereof the following sentence:— Children who are English learners shall be educated through sheltered English immersion during a temporary transition period not normally intended to exceed one school year, provided, however, that kindergarten English learners shall be educated either in sheltered English immersion or English language mainstream classrooms with assistance in English language acquisition, including, but not limited to, English as a second language, so-called.

SECTION 210. Said section 4 of said chapter 71A, as so appearing, is hereby further amended by striking out the last sentence and inserting in place thereof the following sentence:— Foreign language classes for children who already know English, 2-way bilingual programs for students in kindergarten through grade 12 and special education programs for physically or mentally impaired students shall be unaffected.

SECTION 211. Subsection (a) of section 5 of said chapter 71A, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:— If a parental waiver has been granted, the affected child may be transferred to classes teaching English and other subjects through bilingual education techniques or other generally-recognized educational methodologies permitted by law.

SECTION 212. Section 7 of said chapter 71A, as so appearing, is hereby amended by adding the following 2 paragraphs:—  
English learners in any program shall be taught to the same academic standards and curriculum frameworks as all students, and shall be provided the same opportunities to master such standards and frameworks as other students. Districts shall regularly assess mastery of academic standards and curriculum frameworks.

The district shall send report cards and progress reports including, but not limited to, progress in becoming proficient in using the English language and other school communications to the parents or legal guardians of students in the English learners programs in the same manner and frequency as report cards and progress reports to other students enrolled in the district. The reports shall, to the maximum extent possible, be written in a language understandable to the parents and legal guardians of such students.

SECTION 213. Said chapter 71A is hereby amended by inserting after section 7 the following section:—

Section 7A. The office of educational quality and accountability shall conduct on-site visits to school districts at least once every 5 years for the purposes of evaluating the effectiveness of programs serving English learners and to validate evidence of educational outcomes. The evaluation shall include, but not be limited to, a review of individual student records of all English learners, a review of the programs and services provided to English learners and a review of the dropout rate of English learners formerly enrolled in the district within the prior 3 years.

In the event a review and evaluation undertaken under this section demonstrates that a district is failing to adequately improve educational outcomes for English learners, the commissioner may recommend to the board of education and any school within the district be declared underperforming under section 1J and 1K of chapter 69.

SECTION 214. Section 3 of chapter 71B of the General Laws is hereby amended by striking out, in lines 135 and 136, as so appearing, the words “division of health care finance and policy established by section 2 of chapter 118G” and inserting in place thereof the following words:— secretary of health and human services under section 2A of chapter 118G.

SECTION 215. Subsection (b) of section 5A of said chapter 71B, as so appearing, is hereby further amended by striking out the definitions “In-district programs” and “Out-of-district programs”.

SECTION 216. Said section 5A of said chapter 71B, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:—

(c) Instructional costs eligible for reimbursement under the program shall be reported by a school district to the department in a form and manner as prescribed by the commissioner. For each such school district, the department shall review the report and approve those per pupil instructional costs that are eligible for reimbursement pursuant to the program within 30 days of submission. Based upon the approved costs, the department shall calculate the reimbursement due a municipality. The costs of programs shall be reimbursed at 75 per cent of all the approved costs that exceed 4 times the state average per pupil foundation budget, as defined in said chapter 70, for the current fiscal year.

SECTION 217. Subsection (c) of said section 5A of said chapter 71B, as so appearing, is hereby amended by adding the following paragraph:—

Notwithstanding the foregoing, the reimbursement rate for students who have no father, mother, or guardian living in the commonwealth, and for any school age child placed in a school district other than a home town by, or under the auspices of, the department of transitional assistance or the department of social services, shall be 100 per cent of all the approved costs that exceed 4 times the state average per pupil foundation budget.

SECTION 218. Section 22 of chapter 74A of the General Laws, as so appearing, is hereby amended by striking out, in lines 8 and 9, the words “and the payment of reasonable charges by said college for such use” and inserting in place thereof the following words:— “; provided, however, that the assets of the institute that are associated with the program shall be available at no cost to the college”.

SECTION 219. Clause (n) of the fifth paragraph of section 1A of chapter 75 of the General Laws, as so appearing, is hereby amended by inserting after the first sentence, the following 8 new sentences:—

In developing its mission statements for the board of higher education, the university shall provide a clear indication of the different missions of its campuses and shall provide national benchmarks that demonstrate each campus’ success in competing with peer institutions. The chancellors of institutions with the potential to expand their mission, profile and orientation to a more regional or national focus may develop in consultation with the board of trustees of the university a 5-year plan embracing an entrepreneurial model which leverages that potential in order to achieve higher levels of excellence. Such plans shall include, but not be limited to, budget and enrollment projections for each year, projections for total student charges for each year, projections for in-state and out-of-state enrollments for each year, and plans to ensure continuing access to the institution by residents of the Commonwealth, and affirmative action policies and programs that affirm the need for and a commitment to maintaining and increasing access for economically disadvantaged and minority students. The board of trustees shall take a vote to approve said plan, or to return it to the chancellor of the campus with recommended changes. Approval shall require a two-thirds vote. If the board recommends changes, the chancellor may submit a redrafted plan, which will be treated as a new plan under the provisions of this clause. As the flagship research campus of the University system, the Amherst campus should structure any such proposal to demonstrate how its adoption will serve to support the institution’s effort to achieve parity with its peer institutions and enhance its ability to compete with them for students, faculty, and research funding. All such plans shall include, but not be limited to, a 3-year retrospective description of performance and a 5-year plan for future goals.

SECTION 220. Section 4 of chapter 81A of the General Laws, as so appearing, is hereby amended by striking out clause (e) and inserting in place thereof the following clause:—

(e) to: (i) own, construct, maintain, repair, reconstruct, improve, rehabilitate, use, police, administer, control and operate the turnpike or any part thereof; (ii) consistent with agreements entered into with the highway department to the extent applicable, own, construct, maintain, repair, reconstruct, improve, rehabilitate, use, police, administer, control and operate the metropolitan highway system or any part thereof, as it may determine; and (iii) effective October 1, 2003, maintain, repair, use police, administer and operate interstate

highway route 395, interstate highway route 84 and interstate highway route 291; provided, however, that chapter 91 shall not apply to the authority, except for any parts or areas thereof subject to said chapter 91 on March 1, 1997.

SECTION 221. [HF508/SF241 – EXPANDED TURNPIKE AUTHORITY] Section 10 of said chapter 81A, as so appearing, is hereby amended by inserting, after the word “turnpike”, in line 11, the following words:— as well as the costs of maintaining, repairing, using, policing, administering and operating interstate highway route 395, interstate highway route 84 and interstate highway route 291.

SECTION 222. Said chapter 81A is hereby amended by inserting after section 14 the following section:—

Section 14A. (a) As used in this section, the following words shall, unless the context clearly requires otherwise, have the following meanings:—

“Direct light”, light emitting generally in a downward direction by a lamp, off a reflector or through a refractor of a luminaire.

“Full-cutoff luminaire”, a luminaire that allows no direct light from the luminaire above a horizontal plane through the luminaire’s lowest light-emitting part, in its mounted form.

“Glare”, direct light emitted by a luminaire that causes reduced visibility of objects or momentary blindness.

“Lamp”, the component of a luminaire that produces light.

“Light Pollution”, general sky glow caused by the scattering of artificial light in the atmosphere.

“Light trespass”, light emitted by a luminaire that shines beyond the boundaries of the property on which the luminaire is located.

“Lumen”, a specific standard unit of measurement of luminous flux.

“Luminaire”, a complete lighting unit, including a lamp or lamps together with the parts designed to distribute the light, to position and protect the lamps and to connect the lamps to the power supply.

“Non-cutoff luminaire”, a streetlight luminaire in which either the lamp and surrounding glass lens extends well below the horizontal plane of opaque shielding elements of the luminaire or the lamp is situated on top of a post or on a pivoting support on the side of a building, causing light to be cast as glare outward and upward, beyond its useful range.

“Outdoor light fixtures”, outdoor artificial illuminating devices, permanently installed or portable, used for flood-lighting, roadway and area lighting, general illumination or advertisement.

“Permanent outdoor luminaire”, any fixed luminaire or system of luminaires that is outdoors and that is intended to be used for 7 days or longer.

“Roadway lighting”, permanent outdoor luminaires that are specifically intended to illuminate roadways for automotive vehicles.

“Semi-cutoff luminaire”, a luminaire that allows no more than 6 per cent of the light from the lamp to be emitted above a horizontal plane passing through the luminaire’s lowest light-emitting part.

(b) The lessee, user or occupant of real property of the authority leased, used or occupied in connection with a business conducted for profit, at its expense and at no cost to the authority, shall retrofit existing permanent outdoor luminaires or install new permanent outdoor luminaires that meet the following conditions:

(1) the new or replacement luminaire is a full-cutoff luminaire when the rated output of the luminaire is greater than 1,800 lumens;

(2) if a lighting recommendation or regulation applies, the minimum illuminance specified by the recommendation or regulation is used;

(3) if no lighting recommendation or regulation applies, the minimum illuminance adequate for the intended purpose is used with consideration given to recognized standards including, but not limited to, recommended practices adopted by the illuminating engineering society of North America;

(4) for roadway lighting unassociated with intersections of 2 or more streets or highways, a determination is made by the Massachusetts Turnpike Authority that the purpose of the lighting installation or replacement cannot be achieved by installation of reflectorized roadway markers, lines, warnings or information signs or other passive means; and

(5) adequate consideration has been given to the conservation of energy and to the minimization of glare, light pollution and light trespass.

The requirements of this section shall not apply in any of the following circumstances, settings or locations:

(i) a federal law, rule or regulation preempts state law;

(ii) the outdoor lighting fixture is used on a temporary basis by emergency personnel requiring additional illumination for emergency procedures or used by repair personnel on a temporary basis for road repair;

(iii) special events or situations that may require additional illumination including, but not limited to, the illumination of historic structures, monuments or flags, however, all such illumination shall be selected and installed to shield the lamp used from direct view to the greatest extent possible and to minimize upward lighting and light trespass;

(iv) when a compelling safety interest exists that cannot be addressed by any other method; and

(v) the lessee, user or occupant’s permanent outdoor luminaires currently meet the above conditions.

(c) The division of energy resources, in consultation with the Massachusetts Turnpike Authority, shall promulgate regulations to implement and enforce this section which shall include, but not be limited to, a system to ensure that lessees, users and occupants of real property of the authority that is leased, used or occupied in connection with a business conducted for profit comply with the requirements set forth herein. Said regulations shall include the establishment of a waiver process, to be administered by the chairman of the turnpike authority or his designee, whereby said lessees, users and occupants may apply for and, upon proof satisfactory to the turnpike authority, receive a complete or partial exemption from the requirements of this section on the grounds that (1) a bona fide operational, safety or specific aesthetic need exists to an extent that warrants such an exemption or (2) the installation and use of the permanent outdoor luminaires required by this section will substantially impair the ability of said lessee, user or occupant to continue to comply with the financial terms of its lease or agreement with said authority. Said regulations shall be promulgated by said division on or before June 1, 2004.

(d) The lessee, user or occupant shall comply with this section by January 1, 2008 or by an alternative compliance date that may be established by the turnpike authority pursuant to a partial waiver granted by said authority pursuant to paragraph (c).

SECTION 223. Section 18 of said chapter 81A, as so appearing, is hereby amended by striking out, in line 6, the words “one million dollars” and inserting in place thereof the following words:— \$500,000 nor more than \$1,000,000.

SECTION 224. Section 2 of chapter 90 of the General Laws, as most recently amended by chapter 229 of the acts of 2002, is hereby further amended by adding the following paragraph:—

The registrar shall furnish, upon application, to owners of private passenger motor vehicles distinctive registration plates which shall display on their face a design commemorating the Basketball Hall of Fame as the “Birthplace of Basketball”. The registrar shall issue such plates at the direction of the Basketball Hall of Fame. There shall be a biennial fee of not less than \$40 for such plates in addition to the established registration fee for private passenger motor vehicles, such fee being payable at the time of registration of such vehicle and at each renewal thereof. The portion of the fee remaining after the deduction of costs directly attributable to the issuance of such plates shall be transferred within 90 days of receipt thereof to the Basketball Hall of Fame education program at the Basketball Hall of Fame in the city of Springfield.

SECTION 225. Section 10 of chapter 90 of the General Laws, as so appearing, is hereby amended by inserting after the first paragraph the following 2 paragraphs:—

The court shall treat a first violation of the first paragraph of this section as a civil infraction. A person complained of for such a civil infraction shall be adjudicated responsible upon such finding by the court and shall neither be sentenced to a term of incarceration nor be entitled to appointed counsel pursuant to chapter 211D. A person convicted of a first offense under the first paragraph shall be punished by a fine of not less than \$500 nor more than \$1,000.

An adjudication of responsibility under the first paragraph shall not be used in the calculation of second and subsequent offenses under any chapter, nor as the basis for the revocation of parole or of a probation surrender.

SECTION 226. Section 20 of said chapter 90, as so appearing, is hereby amended by striking out the fourth paragraph and inserting in its place the following paragraph:—

There shall be a surcharge of \$50 on a fine assessed against a person convicted or found responsible of a violation of section 17 or a violation of a special regulation lawfully made under the authority of section 18. The first \$25 of each surcharge shall be transferred by the registrar of motor vehicles to the state treasurer for deposit into the Head Injury Treatment Services Trust Fund. The remaining amount shall be transferred by the registrar to the state treasurer for deposit in the General Fund.

SECTION 227. Section 22 of said chapter 90, as so appearing, is hereby amended by adding the following subsection:—

(j) Upon receipt of notice, as specified by the registrar, from the sex offender registry board, that a sex offender has failed to comply with the registration requirements of sections 178C to 178P, inclusive, of chapter 6, the registrar shall suspend or prohibit issuance or renewal of a license, learner’s permit, right to operate a motor vehicle or certificate of motor vehicle registration held by such sex offender. The sex offender shall receive notice that the registrar shall suspend or prohibit renewal of such a license, learner’s permit, right to operate a motor vehicle or certificate of motor vehicle registration in 90 days due to his failure to comply with the registration requirements of said sections 178C to 178P, inclusive, of said chapter 6, unless the sex offender furnishes proof to the registrar that he has complied with his sex offender registration requirements. A sex offender whose license, learner’s permit, right to operate a motor vehicle or certificate of motor vehicle registration has been suspended due to his failure to comply with the registration requirements of said sections 178C to 178P, inclusive, of said chapter 6 may petition for reinstatement of his license, learner’s permit, right to operate a motor vehicle or certificate of motor vehicle registration at any time if he produces sufficient proof, as determined by the registrar, that he is in compliance with his sex offender registration requirements. The registrar shall promulgate regulations to implement this subsection, which shall include the opportunity for a hearing to challenge the lack of sex offender registration compliance. If a hearing is requested, the sex offender registry board shall be notified of the time, place, date of hearing and the identity of the sex offender. An affidavit from the sex offender registry board may be introduced as prima facie evidence of the lack of sex offender registration compliance and members or employees of the sex offender registry board need not attend any hearings held under this subsection.

The registrar shall reinstate, issue or renew such license, learner’s permit or right to operate a motor vehicle or the registration of a motor vehicle if the sex offender registry board provides to the registrar a notice, as specified by the registrar, stating that the sex offender is in compliance with the registration requirements of said sections 178C to 178P, inclusive, of said chapter 6 and such sex offender shall be assessed a \$100 sex offender registry reinstatement fee which shall be transmitted by the registrar to the treasurer for deposit into the general fund. Notices between the sex offender registry board and the registrar under this subsection may be made in any form, including electronic transmission.

SECTION 228. Subparagraph (1) of paragraph (a) of subdivision (1) of section 24 of said chapter 90 is hereby amended by striking out the second paragraph, as so appearing, and inserting in place thereof the following paragraph:—

There shall be an assessment of \$250 against a person who, by a court of the commonwealth, is convicted of, is placed on probation for, or is granted a continuance without a finding for or otherwise pleads guilty to or admits to a finding of sufficient facts of operating a motor vehicle while under the influence of intoxicating liquor, marijuana, narcotic drugs, depressants or stimulant substances under this section; but \$125 of the \$250 collected under this assessment shall be deposited by the court with the state treasurer into the Head Injury Treatment Services Trust Fund, and the remaining amount of the assessment shall be credited to the General Fund. In the discretion of the court, an assessment under this paragraph may be reduced or waived only upon a written finding of fact that such payment would cause the person against whom the assessment is imposed severe financial hardship. Such a finding shall be made independently of a finding of indigency for purposes of appointing counsel. If the person is sentenced to a correctional facility in the commonwealth and the assessment has not been paid, the court shall note the assessment on the mittimus.

SECTION 229. Paragraph (a) of subdivision (2) of said section 24 of said chapter 90, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:—

There shall be an assessment of \$250 against a person who, by a court of the commonwealth, is convicted of, is placed on probation for or is granted a continuance without a finding for or otherwise pleads guilty to or admits to a finding of sufficient facts of operating a motor vehicle negligently so that the lives or safety of the public might be endangered under this section; but \$125 of the \$250 collected under this assessment shall be deposited by the court with the state treasurer into the Head Injury Treatment Services Trust Fund and the remaining amount of said assessment shall be credited to the General Fund. At the discretion of the court, an assessment

under this paragraph may be reduced or waived only upon a written finding of fact that such payment would cause the person against whom the assessment is imposed severe financial hardship. Such a finding shall be made independently of a finding of indigence for purposes of appointing counsel. If the person is sentenced to a correctional facility in the commonwealth and the assessment has not been paid, the court shall note the assessment on the mittimus.

SECTION 230. Section 33 of said chapter 90, as so appearing, is hereby amended by striking out paragraph 36 and inserting in place thereof the following paragraph:—

(36) For the reinstatement of any license or right to operate a motor vehicle which has been suspended or revoked under subsections (a), (e) and (f) of section 22, sections 22F, 23, 24, except as otherwise provided below, section 24B, 24D, 24G, 24L or section 34J, and section 28 of chapter 266, the fee shall be \$500. The fee for reinstatement following revocation under subparagraph (2) of paragraph (c) of subdivision (1) of said section 24 shall be \$700 and the fee for such reinstatement following a revocation under subparagraphs (3) and (3½) of said paragraph (c) of said subdivision (1) of said section 24 shall be \$1,200. The fee for reinstatement of any license or right to operate a motor vehicle which has been suspended or revoked under any general or special law shall be \$100, but the fee for reinstatement for suspensions and revocation under subsection (c) of section 22 shall be commensurate with the fee established for the corresponding Massachusetts offense resulting in the suspension or revocation under the General Laws.

SECTION 231. Section 34J of said chapter 90, as so appearing, is hereby amended by striking out, in lines 7 and 8, the words:— or by imprisonment for not more than one year in a house of correction, or both such fine and imprisonment.

SECTION 232. Said section 34J of said chapter 90, as so appearing, is hereby further amended by adding the following paragraph:— The court shall treat a violation of the first paragraph as a civil infraction. A person complained of for such civil infraction shall be adjudicated responsible upon such finding by the court and shall not be sentenced to a term of incarceration nor entitled to appointed counsel pursuant to chapter 211D. An adjudication of responsibility under this section shall not be used in the calculation of second and subsequent offenses under any chapter, nor as the basis for the revocation of parole or of a probation surrender.

SECTION 233. Section 1 of chapter 90A of the General Laws, as so appearing, is hereby amended by striking out, in line 7, the words “the chairman of the metropolitan district commission” and inserting in place thereof the following words:— the commissioner of conservation and recreation.

SECTION 234. Section 1 of chapter 90C of the General Laws, as so appearing, is hereby amended by striking out the definitions of “District court” and “Division” and inserting in the place thereof the following definitions:—

“District court”, a division of the district court department or a session thereof for holding court or a division of the Boston municipal court department or a session thereof for holding court. It shall also include the divisions of the juvenile court department with respect to automobile law violations that are treated as a delinquency matter in such department and with respect to civil motor vehicle infractions that are recorded in conjunction with and that arise from the same occurrence as automobile law violations that are treated as a delinquency matter in such department.

“Division”, a division of the district court department or juvenile court department or, a division of the Boston municipal court department.

SECTION 235. Paragraph (4) of subsection (A) of section 3 of said chapter 90C, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:—

Upon his appearance before the clerk magistrate that is assigned to such a noncriminal hearing, the violator shall pay to said clerk-magistrate a fee of \$10 prior to the commencement of said hearing.

SECTION 236. The fourth paragraph of said paragraph (4) of section 3 of said chapter 90C, as so appearing, is hereby amended by inserting after the first sentence the following sentence:— Any violator so appealing the decision of a magistrate shall be responsible for paying a fee of \$20 prior to the commencement of said appeal hearing before a justice.

SECTION 237. Said section 1 of said chapter 91, as so appearing, is hereby further amended by striking out, in lines 12 and 13, the words “environmental management” and inserting in place thereof the following words:— conservation and recreation.

SECTION 238. Section 3 of said chapter 91, as so appearing, is hereby amended by striking out, in lines 15 and 16, the words “, except lands under the control of the metropolitan district commission,”.

SECTION 239. Section 10A1/2 of said chapter 91 is hereby repealed.

SECTION 240. Section 10C of said chapter 91, as so appearing, is hereby amended by striking out, in line 24, the word “division” and inserting in place thereof the following word:— office.

SECTION 241. Section 9A of chapter 92 of the General Laws is hereby repealed.

SECTION 242. Section 33 of chapter 92 of the General Laws, as so appearing, is hereby amended by striking out section 33, as so appearing, and inserting in place thereof the following section:—

Section 33. The division of urban parks and recreation, hereinafter referred to as the division, may maintain and make available to the inhabitants of Arlington, Belmont, Boston, Braintree, Brookline, Cambridge, Canton, Chelsea, Dedham, Dover, Everett, Hingham, Hull, Lynn, Malden, Medford, Melrose, Milton, Nahant, Needham, Newton, Quincy, Revere, Saugus, Somerville, Stoneham, Swampscott, Wakefield, Waltham, Watertown, Wellesley, Weston, Westwood, Weymouth, Winchester and Winthrop, which shall constitute the urban parks district, open spaces for exercise and recreation, in this chapter called reservations; and, for the purposes set forth in this section, the powers of the division shall extend to, and be exercised in, said district.

The division may preserve, beautify and care for such public reservations, and also, in its discretion and upon such terms as it may approve, such other open spaces within said districts as may be intrusted, given or devised to the commonwealth for the general purposes of this section or for any one or more of such purposes as the donor may designate.

The division may, for the purpose of making the rivers and ponds within said district more available as open spaces for recreation and exercise, regulate the use of certain spaces along or near said rivers and ponds, and care for and maintain spaces so regulated, and plant, care for, maintain or remove trees, shrubs and growth of any kind within said regulated spaces.

The commissioner of conservation and recreation, hereinafter referred to as the commissioner, may enter into and issue agreements, licenses and permits for recreational and other uses which he deems compatible and consistent with this section and Article XCVII of the amendments to the Constitution, provided, however, that such agreements, licenses and permits shall be for periods not exceeding 5 years.

This section shall not limit existing rights of any town in relation to water supply purposes or in any way obstruct its taking advantage of such rights.

SECTION 243. Said chapter 92 is hereby amended by adding the following new sections:--

Section 1A. The division of urban parks and recreation shall be under the administrative supervision of a director, who shall be called the director of urban parks and recreation. The director shall reside within the urban parks district defined in section 33 of chapter 92. Section 1B [HF 109, sec. 3, revised]. The director of the division of urban parks and recreation shall devote his whole time during business hours to the work of the division and shall be responsible for the performance of the functions of the division as specified by law. Each subdivision or section of the division shall be under his direction, control and supervision. The director may appoint and remove such officials and employees as the work of the division may require and may from time to time assign to such officials and employees such duties as the work of the division may require, subject to chapters 30 and 31, except as provided by chapter 583 of the acts of 1947.

SECTION 244. Said chapter 92 is hereby further amended by striking out section 34, as so appearing, and inserting in place thereof the following section:-

Section 34. The state treasurer may, with the approval of the governor and council, receive and hold in trust for the commonwealth, exempt from taxation, any grant or devise of lands or rights in land, and any gift or bequest of money or other personal property, made for the purposes of the preceding section, and shall preserve and invest the proceeds thereof in notes or bonds secured by good and sufficient mortgage or other securities. Said trust property shall be known as the Division of Urban Parks Trust Fund, and shall be used and expended under the direction of the division and subject to its orders. Subject to the terms of any such grant, gift, devise or bequest, the division may expend such funds, whether principal or income.

SECTION 245. Said chapter 92 is hereby further amended by striking out section 34A, as so appearing, and inserting in place thereof the following section:-

Section 34A. The director of the division of urban parks and recreation, hereinafter referred to as the director, may receive and hold in trust for the commonwealth, exempt from taxation, any instrument of value, including but not limited to, any gift or bequest of money or other personal property, and any grant or devise of lands or rights in land for the purpose of fostering and advancing the MetroZoos zoological parks of the commonwealth and shall administer the same in such a manner as to carry out the terms of such bequests or gifts, grants, or devises. All money and securities received hereunder shall be transferred to the state treasurer, who shall preserve and invest the proceeds thereof, in notes or bonds secured by good and sufficient mortgage or other securities. Said trust property shall be known as the MetroZoos Zoological Trust, and shall be used and expended under the direction of the director after notification to the division. Subject to the terms of any such grant, gift, devise, or bequest, the division of urban parks and recreation may expend such funds, whether principal or income.

SECTION 246. Section 35 of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 2, the word "metropolitan" and inserting in place thereof the following word:-- urban.

SECTION 247. Section 35 of said chapter 92, as so appearing, is hereby further amended by striking out, in line 3, the words "under its jurisdiction".

SECTION 248. Said section 35 of said chapter 92, as so appearing, is hereby further amended by adding the following paragraph:— Notwithstanding section 20 of chapter 21A, the division and department shall preserve and protect the scenic and historic integrity of its roadways and boulevards. Neither the department nor the division shall enter into an interagency or other agreement concerning the roadways and boulevards with a state or public agency or entity to transfer any lands, roadways or boulevards, bridges, facilities, personnel, equipment or material under its care, custody and control without the express prior approval of the legislature.

SECTION 249. Said chapter 92 is hereby further amended by striking out section 35A, as so appearing, and inserting in place thereof the following section:-

Section 35A. The division may authorize the removal to some convenient place, through the agency of a person or persons in the employ of the division, or by an independent contractor selected on the basis of competitive bids, any vehicle, except a vehicle owned by the commonwealth or a political subdivision thereof or by the United States or an instrumentality thereof or registered by a member of a foreign diplomatic corps or by a foreign consular officer who is not a citizen of the United States and bearing a distinctive number plate or otherwise conspicuously marked as so owned or registered, parked or standing on any part of a parkway, boulevard or roadway in such a manner as to impede in any way the removal or plowing of snow or ice, or parked or standing in violation of any rule or regulation adopted under section 37 which prohibits the parking or standing of all vehicles on such parkway, boulevard or roadway or portion thereof at such time and which recites that whoever violates such regulation shall be liable to charge for the removal and storage of the vehicle as well as subject to punishment by fine. Liability may be imposed for the reasonable cost of such removal, and for the storage charges, if any, resulting therefrom, upon the owner of such vehicle.

SECTION 250. Said chapter 92 is hereby further amended by inserting after section 35 the following section:—

Section 35B. No person shall operate a truck, bus, camper, trailer, or mobile home or any vehicle with a seating capacity of more than 12 persons on a road, driveway, parkway, boulevard or bridge under the control of the department of conservation and recreation within the urban parks district which is restricted to pleasure vehicles only; provided, however, that a pickup truck having a gross vehicle weight of 5,000 pounds or less and a maximum overall height of 7 feet or less shall be permitted. Those vehicles which are prohibited may gain access to a destination situated in, or only accessible by the use of a restricted roadway, by entering from the nearest unrestricted roadway and exiting in the same manner; provided, however, that no person shall operate a vehicle having a gross vehicle weight in excess of 10 tons upon any roadway under the control of the department of conservation and recreation in the urban parks district without the express consent of the department. Any person violating this section shall be punished for each offense by a fine of not less than \$100 and not more than \$500.

SECTION 251. Section 36 of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 2 and 3 and in line 16, the word “commission” and inserting in place thereof, in each instance, the following word:—division.

SECTION 252. Said section 36 of said chapter 92, as so appearing, is hereby further amended by striking out the second and third sentences.

SECTION 253. Said chapter 92 is hereby further amended by striking out section 37, as so appearing, and inserting in place thereof the following section:-

Section 37. Except as provided in section 38, the commissioner, in consultation with the director, may make rules and regulations for the government and use of the reservations or boulevards under the division’s care and to govern the public use of the Charles river, the Neponset river and the Mystic river, within the urban park district, and of the ponds and other waters along which it holds abutting lands for reservations in said district; provided, that no rule or regulation shall affect the water rights of any person, whether a mill owner or otherwise. No such rule or regulation shall prohibit the use of passenger or station wagon type motor vehicles whose gross weight is less than 5000 pounds and which are registered for commercial use, on ways, parkways or boulevards where non-commercial passenger-type motor vehicles are permitted to operate.

A police officer employed by a city or town in whose boundaries, reservations or boulevards are located shall have all the same powers they have as a police officer of the city or town to enforce the laws of the commonwealth and the rules and regulations of the department on any bikeway, pathway, park, reservation or other land under the care of the division.

The division shall cause such rules and regulations to be posted in the reservation or boulevard to which they apply, and shall also cause the same to be published at least once in a newspaper published in the county where said reservation or boulevard is in whole or in part situated, and such posting and publication shall be sufficient notice to all persons. The sworn certificate of the director of such posting and publishing shall be prima facie evidence thereof.

Whoever violates any rule or regulation made hereunder shall be punished by fine not exceeding \$200.

SECTION 254. Section 38 of said chapter 92, as so appearing, is hereby amended by striking out, in line 1, the word “commission” and inserting in place thereof the following word:— department.

SECTION 255. Section 38 of said chapter 92, as so appearing, is hereby further amended by striking out, in lines 7 and 14, the word “commission” and inserting in place thereof, in each instance, the following word:—division.

SECTION 256. Said section 38 of said chapter 92, as so appearing, is hereby further amended by striking out in line 10, the words “any member of the commission or of its secretary”, and inserting in place thereof the following words:— the director.

SECTION 257. Said section 38 of said chapter 92, as so appearing, is hereby further amended by striking out, in line 13, the words “any member of the commission or it secretary” and inserting in place thereof the following words:— the commissioner.

SECTION 258. Sections 39 and 40 of said chapter 92 are hereby repealed.

SECTION 259. Section 48 of said chapter 92 is hereby repealed.

SECTION 260. Section 53 of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 5, the word “metropolitan” and inserting in place thereof the following word:— urban.

SECTION 261. Sections 54, 55, 59A, 60, 64, 65 and 66 of said chapter 92 are hereby repealed.

SECTION 262. Section 74 of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 6, the word “twenty-five” and inserting in place thereof the following figure:— 5.

SECTION 263. Section 74A of said chapter 92 is hereby repealed.

SECTION 264. Said chapter 92 is hereby further amended by striking out section 75, as appearing in the 2000 Official Edition, and inserting in place thereof the following section:—

Section 75. The [division] may appoint from the office of environmental law enforcement a harbor master and assistant harbor masters who shall respectively have and exercise within the Charles river basin all the powers and authority which now appertain by law to the offices of harbor master and assistant harbor masters for the port of Boston appointed by the police commissioner of the city of Boston. The [division] may require such further duties of these officers, consistent with law, as the commission may deem expedient. The harbor master and assistant harbor masters shall receive the pay which may be established for the grade or rank which they respectively hold in the office of environmental law enforcement.

SECTION 265. Section 76 of said chapter 92 is hereby repealed.



SECTION 266. Section 76A of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 17, and in lines 22 and 23, the word “commission” and inserting in place thereof, in each instance, the following word:— division.

SECTION 267. Said section 76A of said chapter 92, as so appearing, is hereby further amended by striking out, in lines 25 and 26, the word “commission’s” and inserting in place thereof, in each instance, the following word:— division’s.

SECTION 268. Said section 76A of said chapter 92, as so appearing, is hereby further amended, in lines 28 and 30, by striking out the word “said” and inserting in place thereof, in each instance, the following word:-- the.

SECTION 269. Said section 76A of said chapter 92, as so appearing, is hereby further amended by inserting in lines 28 and 30 after the word “department”, in each instance, the following words:— of environmental protection.

SECTION 270. Section 79 of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 2 and 8, the word “commission” and inserting in place thereof the following words:-- commissioner.

SECTION 271. Said section 79 of said chapter 92, as so appearing, is hereby further amended by striking out, in line 5, the word “metropolitan” and inserting in place thereof the following word:-- urban.

SECTION 272. Said section 79 of said chapter 92, as so appearing, is hereby further amended by striking out, in line 10, the word “commission” and inserting in place thereof the following word:-- division.

SECTION 273. Said section 79 of said chapter 92, as so appearing, is hereby further amended by striking out, in line 16, the word “commission” and inserting in place thereof the following words:-- stewardship council.

SECTION 274. Section 80 of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 2, the word “commission” and inserting in place thereof the following words:- commissioner.

SECTION 275. Section 83 of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 1, 8 and 9, the word “commission” and inserting in place thereof, in each instance, the following word:- department.

SECTION 276. Section 84 of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 1 and 5, the word “commission” and inserting in place thereof, in each instance, the following word:- department.

SECTION 277. Said section 84 of said chapter 92, as so appearing, is hereby further amended by inserting after the word “town” in line 2 the following words:-within the urban parks district.

SECTION 278. Section 85 of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 1, 15 and 20, the word “commission” and inserting in place thereof, in each instance, the following word:- department.

SECTION 279. Said section 85 of said chapter 92, as so appearing, is hereby further amended by inserting after the word “town” in line 2 the following words:-within the urban parks district.

SECTION 280. Said section 85 of said chapter 92, as so appearing, is hereby further amended by striking out, in line 15, the word “votes” and inserting in place thereof the following word:- decides.

SECTION 281. Said section 85 of said chapter 92, as so appearing, is hereby further amended by striking out, in line 20, the word “vote” and inserting in place thereof the following word:- decision.

SECTION 282. Section 86 of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 2, 9, 13 and 14, the word “commission” and inserting in place thereof, in each instance, the following word:- department.

SECTION 283. Said section 86 of said chapter 92, as so appearing, is hereby further amended by inserting after the word “purposes” in line 2 the following words:- under section 80.

SECTION 284. Section 87 of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 1, 14, 16, 19 and 20, and in line 21 the word “commission” and inserting in place thereof, in each instance, the following word:— department.

SECTION 285. Said section 87 of said chapter 92, as so appearing, is hereby further amended by striking out, in lines 4 and 11, the word “metropolitan” and inserting in place thereof, in each instance, the following word:—urban.

SECTION 286. Said section 87 of said chapter 92, as so appearing, is hereby further amended by striking out, in line 21, the word “commission” and inserting in place thereof the following word:—division.

SECTION 287. Section 88 of said chapter 92, as so appearing, is hereby amended by striking out, in line 1, and in lines 4 and 5, the word “commission” and inserting in place thereof, in each instance, the following word:—division.

SECTION 288. Section 93 of said chapter 92, as appearing in the 2000 Official Edition, is hereby amended by striking out, after the word “commonwealth,” the remainder of line 4 and line 5.

SECTION 289. Sections 96 to 101, inclusive, and 103 to 120, inclusive, of said chapter 92 are hereby repealed.

SECTION 290. The General Laws are hereby amended by inserting after chapter 92 the following chapter:—

#### CHAPTER 92A½.

#### WATERSHED MANAGEMENT.

Section 1. As used in this chapter, the following words, unless the context clearly indicates otherwise, shall have the following meanings:—

“Advisory committee”, the watershed system advisory committee for the appropriate watershed system.

“Alteration”, draining, dumping, dredging, damming, discharging, excavating, filling or grading; the erection, reconstruction or substantial expansion of any buildings or structures; the driving of pilings; the construction or reconstruction or paving of roads and other ways; the construction or reconstruction of utilities; the changing of run-off characteristics; the intercepting or diverting of ground waters, surface waters, reservoirs, tributaries, or aquifers; the installation or substantial expansion of drainage, sewage and water systems.

“Aquifer”, a geological formation, group of formations, or part of a formation in the Wachusett watershed that is capable of yielding a significant amount of water to a well or spring, as determined by reference to maps generated by the Massachusetts geographic information service based on the United States Geological Survey water resource atlases or any other source determined to be more accurate pursuant to subsection (m) of section 5. The land directly overlaying an aquifer shall be deemed to be a part of said aquifer.

“Authority”, the Massachusetts Water Resources Authority.

“Bonds”, any bonds, notes or other evidences of indebtedness.

“Bordering vegetated wetland”, a wet meadow, except meadows used for the grazing of livestock, marsh, swamp, bog, or other area, hydrologically connected to and bordering on a tributary, reservoir, flood plain, or surface water, which supports at least 50 per cent wetland species.

“Department”, the department of conservation and recreation.

“Division”, the division of water supply protection.

“Flood plain”, the land adjoining a tributary, reservoir or surface water, which is subject to inundation from a flood having a 1 per cent chance of being equalled or exceeded in any given year, commonly known as the 100 year flood plain, as determined by reference to the most recent edition of the flood hazard boundary maps issued by the Federal Emergency Management Agency or any other source determined to be more accurate pursuant to subsection (m) of section 107A.

“Ground water”, water below the land surface in a saturated zone, including perched ground water.

“Hazardous material or waste”, any material or waste, in whatever form, which because of its quantity, concentration, corrosivity, flammability, reactivity, toxicity, or infectious, chemical, or radioactive characteristics, either separately or in combination with any substance or substances, constitutes a present or potential threat to human health, safety, welfare, or to the environment. Hazardous material or waste shall include those materials listed in section 261 of title 40 of the code of federal regulations, or 310 CMR 40.900 Appendix I.

“Pollutant”, any substance, man-made or resulting from human activities, that can alter the biological, chemical, physical, or radiological character of water.

“Quabbin watershed advisory committee”, the committee established by section 13.

“Revenues”, charges, reimbursements and other receipts derived by the division from operation of the watershed system and from all other activities or properties of the division including, without limiting the generality of the foregoing, proceeds of grants, gifts, investments, earnings and proceeds of insurance or condemnation.

“Surface water”, water in the watersheds, including any lake, spring, impoundment, and pond, as determined by reference to the most recent edition of maps generated by the Massachusetts geographic information service based on the United States Geological Survey 1 to 25,000 scale quadrangle maps or any other map determined to be more accurate pursuant to subsection (m) of section 5. Surface water shall include the land located thereunder and the banks thereto. Surface water shall exclude all reservoirs, tributaries, aquifers, ground waters, and man-made farm ponds used for irrigation, as well as all so-called great ponds of the commonwealth which do not drain into a tributary or a reservoir.

“Tributary”, a body of running water, including, a river, stream, brook and creek, which moves in a definite channel in the ground due to a hydraulic gradient and which flows ultimately into a reservoir in the watersheds or the Ware river above the Ware river intake, as determined by reference to the most recent edition of maps generated by the Massachusetts geographic information service based on the United States Geological Survey one to 25,000 scale quadrangle maps or any other map determined to be more accurate pursuant to subsection (m) of section 5. A tributary shall include the land over which the water therein runs and the banks thereto.

“Ware river watershed advisory committee”, the committee established by section 14.

“Watershed system”, (i) all real and personal property interests held by or on behalf of the commonwealth immediately prior to the effective date of this act in and for the former metropolitan district commission water system which were part of or appurtenant to the Quabbin watershed, Quabbin reservoir, Ware river watershed, Wachusett watershed, Wachusett reservoir, North and South Sudbury watersheds, Sudbury reservoir, Framingham reservoirs 1, 2 and 3, Blue Hills reservoir, Bear Hill reservoir, Spot Pond reservoir, Fells reservoir, Weston reservoir, Norumbega reservoir, Chestnut Hill reservoir, including land, easements, buildings, structures, all equipment, machinery, vehicles, and appliances, improvements, water rights and rights in source of water supply and (ii) all enlargements and additions to the former metropolitan district commission water system acquired or constructed by the division for the purposes of the watershed system, including land, easements, buildings, structures, equipment, machinery, vehicles, and appliances, improvements, reservoirs, dams, water rights and rights in sources of water supply, but excluding the waterworks system of the authority.

“Watersheds”, the natural basin from within which water drains or in natural course would drain into the Quabbin reservoir, the Wachusett reservoir, or the Ware river upstream of the Ware river intake.

Section 2. There shall be within the department a division of water supply protection which shall be subject to chapter 737 of the acts of 1972. The division shall construct, maintain and operate a system of watersheds, reservoirs, water rights and rights in sources of water supply, shall supply thereby a sufficient supply of pure water to the Massachusetts Water Resources Authority, and shall utilize

and conserve said water and other natural resources in order to protect, preserve and enhance the environment of the commonwealth and to assure the availability of pure water for future generations. The division shall maintain a visitors' informational center at the Quabbin reservation. All records pertaining to the history of the Swift River and Ware River Valleys, land takings therein, Quabbin Reservoir construction and matters regarding the 4 discontinued towns and extant adjacent communities shall remain accessible to the public at the Quabbin Reservoir administrative facilities in Belchertown, Massachusetts.

The division of water supply protection shall be under the administrative supervision of a director, who shall be called the director of water supply protection. The director shall be responsible for the watershed system formerly under the care, custody and control of the division of watershed management of the metropolitan district commission, and the watershed system formerly under the care, custody and control of the division of water resources of the department of environmental management.

Section 3. The division shall keep all bridges built by it across the reservoir upon the Nashua river safe, and shall have charge of, use, maintain and operate the same, and the commonwealth shall be exclusively responsible for all damages caused thereby or by any defect or want of repair therein. The department shall have the exclusive right and control over all ponds, reservoirs and other property within the watershed system, and may order all persons to keep from entering in, upon or over the waters thereof and the lands of the commonwealth or towns surrounding the same.

Section 4. The division shall have the exclusive right to and interest in hydroelectricity developed, generated, transmitted, distributed and sold as an incident to the operation of the watershed and waterworks systems, may undertake such projects for such purposes and may authorize or contract with any other person otherwise lawfully qualified for such person to perform on reasonable terms and conditions such activities on behalf of or by arrangement with the division. The division may by lease, license or permit or on its own behalf provide for the installation and operation of electric and telecommunications transmission facilities within said systems, provided that such facilities shall not interfere with the proper operation of said systems and that no lease, license or permit for such purpose shall be made for a term of more than 40 years. Subject to contractual requirements or other legal obligations in force on the effective date of this act, the division shall permit use of water in reservoirs for hydroelectric generation only when and to the extent that water is otherwise subject to release for reasons of sound management of the reservoirs for watershed, waterworks and stream flow purposes. All revenues derived from the activities authorized herein shall annually be remitted by the division to the state treasurer who shall deposit said revenues into the general fund.

Section 5. (a) Any alteration, or the generation, storage, disposal, or discharge of pollutants is prohibited within those portions of the watersheds that lie within 200 feet of the bank of a tributary or surface waters or within 400 feet of the bank of a reservoir.

(b) (1) The uses and activities set forth in paragraph (2) are prohibited within those portions of the watersheds that lie:

- (i) within the area between 200 and 400 feet of the bank of a tributary or surface waters;
- (ii) within the flood plain of a tributary or waters, including that flood plain;
- (iii) within bordering vegetated wetlands that border on tributaries or surface waters, or reservoirs;
- (iv) within land that overlays an aquifer with a potential well yield of 100 gallons per minute or more as determined pursuant to subsection (m); or
- (v) within land that overlays an aquifer with a potential well yield of one or more but less than 100 gallons per minute pursuant to a finding by the division, in consultation with the department of environmental protection, that regulation of the aquifer is necessary for the protection of the quality of the water in the surface waters, aquifers, reservoirs or the tributaries.

(2) The following uses are prohibited within the area regulated by paragraph (1):

- (i) the disposal of pollutants from either private or publicly owned sewage treatment facilities;
- (ii) the placement of the leaching field of a subsurface waste water disposal system less than 4 feet above the maximum water table level as measured at the time of annual high water;
- (iii) the storage of liquid petroleum products of any kind; provided, however, that an end user of such product, such as a resident in connection with normal residential use or a person responsible for supplying heat to a residence, may store a reasonable volume of such material so long as such storage is in a free standing container inside of a structure, which structure shall include at a minimum a foundation thereof with a poured cement slab floor or a concrete reservoir of sufficient volume to hold 125 per cent of the tank's capacity;
- (iv) the treatment, disposal, use, generation, or storage of hazardous material or waste, except a reasonable volume of hazardous material or waste, incidental to normal residential use;
- (v) the storage and the disposal of solid waste other than a reasonable volume incidental to normal residential use;
- (vi) the outdoor storage of road salt or other deicing chemicals; provided, however, that this section shall not prohibit the outdoor storage of sand, gravel, or materials used in road construction which are not hazardous materials or waste;
- (vii) the outdoor storage of fertilizers, herbicides, and pesticides;
- (viii) the use or storage of pesticides or herbicides which carry a mobility rating as provided for by the United States environmental protection agency or which have been determined by the commonwealth using environmental protection agency standards to pose a threat or potential threat to ground water;
- (ix) the outdoor uncovered storage of manure;
- (x) the servicing, washing, or repairing of boats or motor vehicles other than as reasonably incidental to normal residential use;
- (xi) the operation of junk and salvage yards;
- (xii) the rendering impervious of more than ten percent of any lot or 2500 square feet, whichever is greater;
- (xiii) the excavation of gravel and sand to a depth greater than 6 feet above the maximum water table, except where incidental to the construction of permitted structures;
- (xiv) the altering of bordering vegetated wetlands;
- (xv) any other activity which could degrade the quality of the water in the watersheds as determined by the division after consultation with the department of environmental protection; provided, however, that de-icing may be performed on a roadway under procedures approved by the secretary of environmental affairs.

(c) This section shall not apply to uses, structures or facilities lawfully in existence or for which all applicable municipal, state and federal permits and approvals, other than building permits and permits for septic systems, have been obtained prior to July 1, 1992. This section shall not apply to any reconstruction, extension, or structural change to any structure in lawful existence as of said date; provided, however, that such reconstruction, extension, or structural change (i) does not constitute a substantial change to or enlargement of that lawfully existing structure, and (ii) does not degrade the quality of the water in the watershed.

(d) In addition to and without limiting subsection (a) or subsection (b), the construction of a dwelling on land set forth in subsection (b) which exceeds a density of 2 bedrooms per acre is prohibited. No use may generate more than 220 gallons of sanitary sewage per acre per day. In making such calculations all contiguous real property within the area regulated by said subsection (a) or said subsection (b) owned by the same person shall be used in the aggregate to determine the total acreage for density purposes; provided, however, that said area may be so used for determining area density for only 1 parcel.

(e) In addition to and without limiting subsection (a), (b) or (d), the construction of any dwelling which exceeds a density of 1 and 1/3 bedrooms per acre is prohibited within those portions of the watersheds that overlay aquifers with potential well yields of between 100 and 300 gallons per minute as determined pursuant to subsection (m) or land whose regulation has been determined to be necessary for the protection of the quality of the water in the surface waters, aquifers, reservoirs and tributaries pursuant to clause (v) of paragraph (1) of subsection (b). No use may generate more than 147 gallons of sanitary sewage per acre per day.

(f) In addition to and without limiting subsection (a), (b), (d) or (e), the construction of any dwelling which exceeds a density of 1 bedroom per acre is prohibited within those portions of the watersheds that overlay aquifers with potential well yields of over 300 gallons per minute as determined pursuant to subsection (m). No use may generate more than 110 gallons of sanitary sewage per acre per day.

(g) Nothing in subsection (d), (e) or (f) shall be deemed to limit such construction if a sewer system exists prior to July 1, 1992 to which a direct connection shall be made without expansion of capacity and the connection is used for all sanitary sewage of any dwelling or other structure resulting from the construction.

(h) Nothing in this section shall prevent the construction of 1 single family dwelling, on any lot existing as such prior to July 1, 1992 within the areas regulated by this section. Nothing in this section shall prevent any owner occupied lot existing as such on July 1, 1992 from being subdivided into 1 additional lot. Wherever possible there shall be no alterations within the area regulated by subsection (a).

(i) Subsequent to the issuance of regulations as provided for in this section, any person owning an interest in real property located in a community with land that lies within the watersheds, by written request may submit to the division the determination of a land surveyor registered with the board of registration of professional engineers and of land surveyors as to whether such owner's real property interests are located within areas regulated by this section. The division shall have been deemed to have concurred with the determination unless within 60 days from the submission of the determination the division issues a written notice of denial to the owner. The division shall issue regulations pursuant to section 6 regarding such submissions and any requirements thereto. All surveys and additional materials or studies required to make a determination, whether or not requested by the division, shall be prepared and delivered at the sole cost of the person desiring the determination.

(j) A tributary or portions thereof may be exempted from the provisions of this section, if after taking into account the rate of flow, slope, soil characteristics, proximity to a reservoir or the Ware river above the Ware river intake, the current level of water quality and the current degree of development, the division, in consultation with the department of environmental protection, determines that such exemption poses no significant risk to the quality of the water.

(k) The division, after consultation with the department of environmental protection, shall issue regulations pursuant to section 6 for appealing the inclusion of a location in the areas regulated by this section. It shall be the responsibility of the appellant to prove that the location was improperly included. If the appeal is decided in the appellant's favor, a court of competent jurisdiction shall award to appellant reasonable attorney fees, costs and expenses incurred in the action.

(l) The division, in accordance with procedures for notice and a hearing as provided by chapter 30A, may grant upon appeal or petition with respect to particular uses or structures, and shall grant upon request with respect to crossings of tributaries and bordering vegetated wetlands a variance from the provisions of this section where the division specifically finds that owing to circumstances relating to the soil conditions, slope, or topography of the land affected by such uses or structures, desirable relief may be granted without substantial detriment to the public good and without impairing the quality of water in the watersheds. The division shall issue regulations pursuant to section 6 regarding such proceedings. The division may impose reasonable conditions, safeguards and limitations to any variance as it may find desirable in its sole discretion which, based upon such hearing record, are necessary to protect the water in the watersheds. The division shall issue regulations pursuant to section 6 regarding such proceedings. The division may impose reasonable conditions, safeguards and limitations to any variance as it may find desirable in its sole discretion which, based upon such hearing record are necessary to protect the water in the watersheds. The division shall record and index in the grantor index in the registry of deeds or register in the registry district of the land court for the county or district where the land lies, a notice of said variance, and conditions thereto, which notice shall describe the land by metes and bounds or by reference to a recorded or registered plan showing its boundaries.

(m) The location of tributaries and surface waters shall be determined by reference to maps generated by the Massachusetts geographic information service based on the most recent edition of the United States Geological Survey 1 to 25,000 thousand scale quadrangle maps. The location of flood plains shall be determined by reference to the most recent edition of the flood hazard boundary maps issued by the director of the Federal Emergency Management Agency. The location and the potential well yield of aquifers shall be determined by reference to maps generated by the Massachusetts geographic information service based on the United States Geological Survey water resource atlases. The division, in consultation with the department of environmental protection, may adopt more accurate maps pursuant to notice and a public hearing as provided in chapter 30A and shall file such more accurate maps with the clerks of the house of representatives and the senate 90 days prior to such maps taking effect.

(n) This section shall not apply to the division in the performance of its responsibilities and duties to protect the quality of the water in the watersheds, or to the Authority in the performance of its responsibilities and duties to maintain, operate and improve the waterworks system. The provisions of this section shall not apply to activities relating to normal maintenance or improvement of land in agricultural use as defined in section 40 of chapter 131, or regulations promulgated thereunder; provided, however, that such activities do not impair the quality of the water. Nothing in this section shall be construed to limit conversion of land for agricultural use, or preparation of land for agricultural use; provided, however, that such conversion shall be made under a plan approved by the United States Department of Agriculture Soil Conservation Service and the department in consultation with the department of agricultural resources. This section shall not apply to the maintenance, repair, replacement or reconstruction of public roadways existing as of September 1, 1989 or railroad track and rail bed existing as of September 1 1990, including associated drainage systems, that are necessary to preserve or restore the facility's serviceability for the number of travel lanes and uses existing as of September 1, 1990; provided, however, that in the case of any replacement the design is substantially the functional equivalent of, and is of similar alignments to that which is being replaced; provided, further, that design plans and specifications for said work on roadways, or railroad track and rail beds are provided to the division prior to the work's commencement. This section shall not apply to the

construction of public highways, railroad track and rail beds and facilities directly related to their operation; and provided, further, that the secretary of environmental affairs has determined that such highway or transportation service construction project requires direct access to or location in the lands set forth in this section and that said secretary and the division have determined that the construction does not materially impair the quality of the water in the watershed and does not otherwise materially impair the quality of the environment. This section shall not apply to the maintenance, repair or expansion of lawfully located structures or facilities used in the service of the public to provide electric, gas, water, sewer, telephone, telegraph and other telecommunication services; provided, however, that such maintenance, repair or expansion activities, structures, or facilities do not materially impair the quality of water in the watersheds as determined by the division after consultation with the department of environmental protection. This section shall not apply to the maintaining, repairing or replacing but not substantially changing or enlarging an existing and lawfully located structure or facility used in the service of the public and used to provide electric, gas, water, sewer, telephone, telegraph and other telecommunication services in bordering vegetated wetlands; provided, however, that such maintenance and repair activities do not materially impair the quality of water in the watersheds. Nothing herein shall limit the ability of a person, municipality, the United States government or the commonwealth to undertake temporary operations to clean up, prevent or mitigate releases of hazardous materials or wastes. This section shall not be construed to limit changes in agricultural crops produced. Nothing in this section shall be construed to limit the use of new or existing agricultural technologies that do not degrade the quality of the water in the watersheds more than the present agricultural technologies that such new or existing agricultural technologies replace.

(o) Upon written request by the division, the department of environmental protection shall have the authority, including the authority to render administrative penalties under section 16 of chapter 21A, to enforce the provisions of this section for violations thereof.

(p) The duties and obligations imposed by this chapter shall be in addition to all other duties and obligations imposed by any other general or special law or regulation.

(q) The division shall hold in at least  $\frac{1}{2}$  of the communities in the affected watersheds an informational public hearing, giving notice thereof at least 30 days prior thereto by advertisement in newspapers of general circulation in each such community and by written notification to the boards of selectmen, city councils, or town councils, whichever is appropriate, in each such community. The division, at the time of such hearing, shall make available maps showing the areas affected by this section and shall explain the provisions of this section and the impact this section will have on the affected communities and landowners.

(r) Nothing in this section shall impede or prevent the construction of a new municipal sewer system or new municipal water system if the division determines that water quality will not be adversely impacted from the construction and provided that such new systems comply with all existing regulations and standards applicable to water pollution abatement projects.

Section 6. The division after consultation with the department of environmental protection, shall make rules and regulations by July 1, 1992 and from time to time thereafter for the protection of the watersheds and the watershed system. The regulations shall include provisions that require notice to the department and the division of applications for variances for uses or structures that affect the watersheds. Notice of hearings on the proposed regulations shall be sent to the chief executive officer of all cities and towns within the watersheds and any other cities and towns affected by such regulations. The division shall file copies of the regulations promulgated in accordance with this section with the clerk of the house of representatives and the clerk of the senate and send copies to the chief executive officer of all the cities and towns within the watersheds and any other cities and towns affected by such regulations. The regulations shall not take effect until 60 days have elapsed from the time of said filing. The division shall cause such rules and regulations to be posted at or near the waters to which they respectively apply, and shall also cause the same to be published at least once in a newspaper published in the county where said waters are in whole or in part situated, and such posting and publication shall be sufficient notice to all persons. The sworn certificate of any senior member of the department of such posting and publication, or of the posting or publication of an order made by the department, shall be prima facie evidence of the posting and publication. A copy of any such rule, regulation or order, attested by any senior member of the department, shall be prima facie evidence that said rule, regulation or order was made by department or by the commissioner, as the case may be.

Section 7. No person shall take or divert any water of the watershed system of the division, and no person shall corrupt, render impure, waste or improperly use any such water.

Section 8. The department, and its employees designated for the purpose, shall enforce sections 1 to 7, inclusive, and the rules, regulations and orders made thereunder, and may enter into any building, and upon any land for the purpose of ascertaining whether sources of pollution there exist, and whether the sections and the rules, regulations and orders made as aforesaid are complied with.

Section 9. Any person who without lawful authority takes or diverts any water from any water supply within the watershed system of the division, or who corrupts or defiles any such water supply, or any source of such water supply, or who injures, destroys or interferes with any property held or used by the authority for the purpose of constructing, operating or maintaining the watershed system, or who violates or refuses to comply with any rule, regulation or order of the department shall be subject to a criminal fine of not more than 50,000 dollars or imprisonment for not more than 1 year; provided, however, that in cases of continuing violation, such maximum fine may be 10,000 dollars per day for each day such violation occurs or continues. Notwithstanding any limitation on criminal penalties set forth in the preceding sentence, any person convicted of the wanton or malicious destruction of or injury to any property used in the construction, operation or maintenance of the watershed system shall also be liable in tort to the department for triple the amount of damages thereby caused. Any such fine or tort judgment shall be payable to the treasury of the commonwealth.

Section 10. The supreme judicial or superior court or any justice of either court shall, on petition of the department or of any town or person interested, have jurisdiction in equity or otherwise to enforce sections 1 to 9, inclusive, and any rule, regulation or order made thereunder, and to prevent any violation of said sections, rules, regulations or orders.

Section 11. The department shall assess the Massachusetts Water Resources Authority for the fiscal year costs of operating the division and other authorized charges relating to the watershed system formerly under the care, custody and control of the division of watershed management of the metropolitan district commission, including 100 per cent of the amounts to be paid in that fiscal year in trust by the authority to the division for application to payments in lieu of taxes pursuant to chapter 59, less any and all revenues generated by the division which shall include, but not be limited to, the sale of hydroelectricity, recreational or permit fees, revenues from the sale of wood products harvested on department watershed lands, and any access fees established pursuant to chapter 436 of the acts of 1990. The assessment shall be established annually by the commissioner of the department. The commissioner of the department shall certify to the executive director of the authority on or before September 15, the current fiscal year obligations due by the authority for the operations of said division relating to the watershed system formerly under the care, custody and control of the division of watershed management of the metropolitan district commission. The commissioner shall bill the treasurer of the authority on October 1, January 1, April 1 and June 30 of each fiscal year for said fiscal year's obligations. Within 30 days of receipt of the

department bill, the treasurer of the authority shall remit the total billed amount to the commission. Revenues received from the June 30 billing shall be credited to that fiscal year. The commissioner of the department shall forward to the treasurer of the commonwealth the revenues generated by the division which shall be credited to the General Fund.

Section 12. The treasurer of the commonwealth shall charge the Massachusetts Water Resources Authority for the debt service costs of bonds issued pursuant to section 3 of chapter 564 of the acts of 1987 and sections 12 and 13 of chapter 36 of the acts of 1992 for the acquisition of fee simple, development and other rights or interests inland in the areas regulated by the division. The revenue shall be deposited into the general fund for the purposes of meeting said debt service costs, subject to appropriation, for said bonds.

Section 13. The commissioner shall establish the Quabbin watershed advisory committee. The purpose of the committee shall be to advise the division on its policies and regulations regarding fishing, boating and other recreational activities and environmental, wildlife and habitat matters within the Quabbin watershed. The commissioner of the department shall appoint to the advisory committee 1 person from 3 names nominated by each of the following organizations: the Massachusetts Council of Sportsmen, the Trout Unlimited, the Quabbin Fisherman's Association, the Worcester County League of Sportsmen, the North Worcester County Quabbin Anglers, the Massachusetts Audubon Society, the Swift River Valley Historical Society, the Massachusetts Wildlife Federation, the New England Sierra Club, and the Friends of Quabbin, Inc.

The commissioner shall also appoint 1 member from the general public. The committee shall elect a chairperson from among its members, shall meet at least twice each calendar year, and may provide for alternate members to participate fully in its meetings whenever a regular member is unable to do so.

Section 14. The commissioner shall establish a Ware river watershed advisory committee. The purpose of the committee shall be to advise the division on its policies and regulations regarding recreational activities, land use and environmental, wildlife and habitat matters within the Ware river watershed. The commissioner of the department shall appoint to the advisory committee 1 person from 3 names nominated by each of the following organizations: the Massachusetts Council of Sportsmen, the Worcester County League of Sportsmen, Trout Unlimited, a rod and gun club located in the town of Barre, Hubbardston, Oakham or Rutland, a designee of the board of selectmen of each of the towns of Barre, Hubbardston, Oakham and Rutland, a representative of the historical societies in each of the towns of Barre, Hubbardston, Oakham and Rutland, a representative of the Massachusetts Wildlife Federation, a representative of the Massachusetts Audubon Society, a representative of the Sierra Club, and a representative of the Upper Ware river watershed association and 1 member from the general public.

The committee shall elect a chairperson from among its members, shall meet at least twice each calendar year and may provide for alternate members to participate fully in its meetings whenever a regular member is unable to do so.

Section 15. The commissioner shall establish a watershed system advisory committee to advise the division on its policies and regulations regarding fishing, boating, and recreational activities and other environmental and wildlife matters in all of the watershed system areas under the control of the division, exclusive of the Quabbin watershed and the Ware river watershed. The committee shall consist of 9 members, the qualifications of whom shall be determined by regulation by the commissioner. The committee shall elect a chairperson from among its members, shall meet at least twice each calendar year, and may provide for alternate members to participate fully in its meetings whenever a regular member is unable to do so.

Section 16. The commissioner shall at least once every 5 years, adopt after public hearing one or more periodic watershed management plans for the watershed system, which shall have been prepared with the participation of a professionally qualified forester and the appropriate watershed advisory committee. Any watershed management plan shall provide for, but need not be limited to, forestry, water yield enhancement and recreational activities. All forestry activities shall be subject to sections 40 to 46, inclusive, of chapter 132.

Section 17. The department, on behalf of the commonwealth, may take by eminent domain under chapter 79, or acquire by purchase or otherwise, lands in fee, easements, rights and other property that it deems necessary or desirable for carrying out the powers and duties conferred upon it by this chapter relative to the construction, maintenance and operation of the watershed system.

Section 18. The division shall be deemed to be a public entity under section 26A of chapter 21 and shall be eligible for grants and other assistance under the Massachusetts Clean Water Act and other program of federal or state assistance for water supply, or related purposes.

Section 19. The department shall have over the property of the watershed system all the general power and authority, which it has over reservations so far as the same may be exercised consistently with the purposes for which the watershed system is maintained.

Section 20. The division shall not contract for services exclusive of contracts pursuant to any general or special act relating to forest cutting practices and for consultants performing only those services for the division which regular employees of the division are unable to perform, to accomplish any of its duties nor shall it enter into any interagency agreement for such purpose. Only officers and employees of the division shall perform its duties.

SECTION 291. Section 1 of chapter 92B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the definitions of "Commission" and "Commissioner" and inserting in place thereof, after the definition of "Corporation," the following definitions:—

"Director", the director of the division of urban parks and recreation.

"Division", the division of urban parks and recreation.

SECTION 292. Section 2 of said chapter 92B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 6, 17 and 26, the word "commissioner" and inserting in place thereof, in each instance, the following word:-- director.

SECTION 293. Section 5 of said chapter 92B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 52 and 57, the word "commissioner" and inserting in place thereof, in each instance, the following word:-- director.

SECTION 294. Section 8 of said chapter 92B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 3, the word "commissioner" and inserting in place thereof the following word:-- director.

SECTION 295. Section 14 of chapter 93 of the General Laws is hereby repealed.

SECTION 296. Section 323F of chapter 94 of the General Laws is hereby repealed.

SECTION 297. The last sentence of paragraph (F) of section 5K of said chapter 111, as appearing in section 1 of chapter 425 of the acts of 2002 is hereby amended by striking out the words “retained revenue account established by the department and used for nuclear power plant environmental monitoring activities” and inserting in place thereof the following words:— “the Radiation Control Trust account”.

SECTION 298. Section 20 of said chapter 111, as so appearing, is hereby amended by striking out, in line 5, the words “the metropolitan district commission or”.

SECTION 299. Section 24C of chapter 111 of the General Laws is hereby repealed.

SECTION 300. Section 24D of said chapter 111 is hereby repealed.

SECTION 301. Section 24G of said chapter 111 is hereby repealed.

SECTION 302. Section 72N of said chapter 111, as so appearing, is hereby amended by striking out, in line 33, the words “division of health care finance and policy” and inserting in place thereof the following words:— executive office of health and human services.

SECTION 303. The fifth paragraph of section 72Y of said chapter 111, as appearing in section 91 of chapter 184 of the acts of 2002, is hereby amended by striking out, in line 1, the words “division of health care finance and policy” and inserting in place thereof the following words:— executive office of health and human services.

SECTION 304. Section 174A of said chapter 111, as so appearing, is hereby further amended by striking out, in lines 16 and 17, the words “fisheries, wildlife and recreational vehicles” and inserting in place thereof the following words:— fish and game.

SECTION 305. Section 175 of said chapter 111, as so appearing, is hereby amended by striking out the last sentence.

SECTION 306. Chapter 112 of the General Laws is hereby amended by inserting after section 39B the following section:-  
Section 39C. The board may, upon application, made in such manner and form as it shall determine, register an establishment for transacting business as a long-term care pharmacy or home fusionist pharmacy, and issue to such entity as it deems qualified to conduct long-term care pharmacy or home fusionist, a permit to operate. The board may deny such registration and refuse to issue such permit, if, in its reasonable discretion, such entity would be inconsistent with or opposed to the best interests of the public health, welfare or safety, but no such registration shall be made or permit issued in the case of a corporation, as defined in section 30 of chapter 63 and most recently amended by section 9 of chapter 300 of the acts of 2002, unless it shall appear to the satisfaction of the board that the management of such entity is controlled solely by a registered pharmacist. Such permit shall expire on December 31 of each uneven numbered year following the date of its issue, and the fee therefore, shall be determined annually by the commissioner of administration under the provision of section 3B of chapter 7. The board, in consultation with the department of public health shall promulgate regulations pertaining to the operation of long-term care and home fusionist pharmacies in the commonwealth subject to the provisions of section 2 of chapter 30A. Said board shall determine which regulations, applicable to a retail drug business under section 39 shall apply to long-term care or home fusionist pharmacies. The board shall, within 150 days after the filing of an application, render a final decision denying or allowing registration. Failure to render such decision, except when such failure to act is caused by the delay of the applicant, shall constitute an approval of the application and permit shall be issued. For the purposes of this section, the term long-term care pharmacy shall mean a pharmacy which dispenses pharmaceuticals, sterile intravenous drugs and nutritional products ordered by physicians to patients in nursing homes, assisted living facilities, hospice programs and similar institutional sites of care. For the purposes of this section, the term home fusionist pharmacy shall mean a pharmacy which dispenses sterile intravenous drugs ordered by physicians to patients in their homes.

SECTION 307. Section 5 of chapter 115A of the General Laws, as so appearing, is hereby amended by inserting after the words “hospitalization in,” in line 5, the following words:— including an increase in any charges, subject to the approval of the secretary of health and human services in

SECTION 308. Chapter 118E of the General Laws is hereby amended by striking out sections 1 to 5, inclusive, as so appearing, and inserting in place thereof the following 2 sections:—

Section 1. The executive office for health and human services shall be the single state agency responsible for the administration of programs of medical assistance and medical benefits established pursuant to this chapter. All actions of the executive office of health and human services shall be taken by the secretary acting as the single state agency, through the division of medical assistance and the secretary of elder affairs, as appropriate.

Section 2. All powers and duties established pursuant to this chapter shall be exercised by the secretary of health and human services, through the division of medical assistance and the secretary of elder affairs, as appropriate.

SECTION 309. Section 6 of said chapter 118E, as so appearing, is hereby amended by striking out, in lines 2 and 13, the word “division” and inserting in place thereof, in each instance, the following words:— “executive office”.

SECTION 310. Said section 6 of said chapter 118E, as so appearing, is hereby further amended by striking out, in lines 4 and 6, the word “commissioner” and inserting in place thereof, in each instance, the words:— secretary of health and human services.

SECTION 311. Section 7 of said chapter 118E, as so appearing, is hereby amended by inserting after the word “division”, in line 2, the following words:— or the department of elder affairs, as appropriate.

SECTION 312. Section 8 of said chapter 118E, as so appearing, is hereby amended by striking out the clauses a. and b. and inserting in place thereof the following 5 clauses:—

a. “Commissioner”, the commissioner of medical assistance or the secretary of elder affairs, as appropriate.

a½. “Department”, the department of elder affairs.

a¾. “Division”, the division of medical assistance within the executive office of health and human services; but for the purposes of sections 9 to 52, inclusive, a reference to the word “division” shall mean the department of elder affairs, whenever appropriate.

b. “Executive office”, the executive office of health and human services.

b½. “Institution”, a licensed hospital, nursing home or public medical institution that meets the requirements of the secretary.

SECTION 313. Section 9 of said chapter 118E, as so appearing, is hereby amended by adding the following sentence:— The division may charge premiums to eligible persons as a condition of receiving benefits, to the extent permitted by Title XIX. The division shall establish the premiums based on a sliding scale commensurate with beneficiary income levels.

SECTION 314. Section 9A of said chapter 118E, as so appearing, is hereby amended by striking out, in lines 66 and 67, the words “and who fall within the definition of traditional beneficiaries, including those individuals who received medical assistance”.

SECTION 315. Section 9A of said chapter 118E, as so appearing, is hereby further amended by striking out, in line 109, the figure “200” and inserting in place thereof the following figure:— 133.

SECTION 316. Subsection (3) of said section 9A of said chapter 118E, as so appearing, is hereby amended by striking out, in line 117, the letter “(g)” and inserting in place thereof the following letter:— (i).

SECTION 317. Said chapter 118E of the General Laws, as amended by section 96 of chapter 184 of the acts of 2002, is hereby further amended by inserting after section 9D the following:—

Section 9E. The secretary of health and human services may apply for authority from the secretary of the United States Department of Health and Human Services, pursuant to section 1115 of the Social Security Act that authorizes the secretary to waive provisions of Title XIX of the Social Security Act, to implement measures that: (1) change to a later date the time currently provided by federal law for starting the penalty periods for persons who transfer assets for less than fair market value; (2) require excess assets to be spent on health care or other necessary living expenses; (3) to treat annuities similarly to trusts and require the commonwealth to be a beneficiary to the extent of MassHealth benefits provided; and (4) increase look-back periods, for real estate transfers and transfers into irrevocable trusts; provided that any changes implemented as a result of a waiver authorized by this section shall not apply to new applications submitted before the effective date of this section or the effective date of any waiver granted, whichever is later; and provided further, that transfers of assets up to \$300,000 from a primary residence shall not be affected by such waiver. The division or the department of elder affairs, as appropriate, may by regulation implement one or more of such measures under the terms and conditions approved by the secretary, provided that the division or the department, as appropriate, shall waive such measures to address hardships as determined by the division or department.

SECTION 318. Said chapter 118E is hereby further amended by inserting after section 10D, the following section:—

Section 10E. The division shall establish a program of medical care and assistance for pregnant women and infants who are not otherwise eligible for medical assistance under chapter one hundred and eighteen E and who lack private health insurance coverage or have health insurance coverage which does not cover all medically necessary care covered by the program established by this section. The division shall furnish such medical assistance to each such pregnant woman and infant residing in the commonwealth in accordance with standards of eligibility established by the division; provided, however, that the income eligibility standards shall not be more than two hundred per cent of the non-farm income poverty guidelines defined by the United States Office of Management and Budget.

Assistance furnished pursuant to this section shall be limited to the following care and services; provided, however, that unless otherwise specified to the contrary no payment shall be allowed for inpatient hospitalization:

(i) all medically necessary care to maintain health during the course of the pregnancy and delivery, including newborn hospital care;

(ii) all medically necessary postpartum obstetric and gynecological care;

(iii) newborn care, including one postpartum pediatric ambulatory visit; and

(iv) outreach services designed to identify and encourage the participation of pregnant women and infants in this program.

The division shall ensure that all women who appear to be eligible for medical assistance under said chapter one hundred and eighteen E are assisted in enrolling for such coverage.

The division shall promulgate and, from time to time, amend regulations detailing eligibility criteria, services to be covered in conformity with appropriate standards of care, and reimbursement policies.

Notwithstanding the provisions of section three of chapter six B or any other law to the contrary, no acute hospital shall deny access to care and services to recipients of the healthy start program established by this section; provided, however, that such recipients shall be exempt from any collection action, pre-admission deposit or any other form of billing or collection procedures arising from treatment by an acute care hospital provided under the healthy start program; and provided further, that a healthy start card shall constitute sole verification of application and eligibility for free care for inpatient hospital services. The program established herein shall be known as the healthy start program.

SECTION 319. Said chapter 118E is hereby further amended by inserting after section 10E the following section:—

Section 10F. There is hereby established a program of managed care to provide primary and preventive health care services for uninsured dependent and adopted youths from birth through age eighteen; provided, however, that only said youths who are ineligible for medical benefits pursuant to this chapter 118E shall be eligible for the services defined herein. Said program shall be administered by the division subject to appropriation from the Children's and Seniors' Health Care Assistance Fund established pursuant to the provisions of section 2FF of chapter 29 and other appropriated funds. The comptroller is hereby authorized and directed to transfer amounts appropriated from the General Fund or any other fiscal resource of the commonwealth designated for health care services



provided to said youths from birth to age 12, inclusive, to said Children's and Seniors' Health Care Assistance Fund. Services available from the program shall include the following:-

- (1) preventive pediatric care in a participating doctor's office, community health center, health maintenance organization or school-based clinic, including not less than one well-child visit a year, immunizations, tuberculin testing, hematocrit, hemoglobin and other appropriate blood testing, urinalysis, and routine tests to screen for lead poisoning, and such services as are periodically recommended by the American Academy of Pediatrics; provided that services provided by a participating independent laboratory for diagnostic laboratory tests shall be reimbursed by said program;
- (2) unlimited sick visits in a participating doctor's office, community health center, health maintenance organization, school-based clinic or a patient's home;
- (3) first-aid treatment and follow up care, including the changing or removal of casts, burn dressings or structures, in a participating doctor's office, community health center, health maintenance organization or school-based clinic;
- (4) the provision of smoking prevention educational information and materials to the parent, guardian or person with whom an enrollee resides.

Services made optionally available under said program may include the following:

- (1) prescription drugs up to \$200 per year; provided, however, that enrollees shall be responsible for a copayment of \$3 for each interchangeable drug prescription and \$4 for each brand name drug prescription; provided, further, that the division may authorize a higher prescription benefit level for any person enrolled in said program for which said higher benefit will prevent hospitalization.
- (2) urgent care visits in the outpatient department of a participating hospital when an enrollee's primary care practitioner is not available to provide such services, and emergency care in the outpatient department or emergency department of a participating hospital of up to one thousand dollars per year, including related laboratory and diagnostic radiology services for said urgent and emergency care, provided that rates of reimbursement for such urgent care and emergency services are negotiated by participating hospitals with the department or its designated vendor;
- (3) outpatient surgery and anesthesia which is medically necessary for the treatment of inguinal hernia and ear tubes, but not including the professional component for related radiology or pathology services; provided that rates of reimbursement for such urgent care and emergency services are negotiated by participating hospitals with the division or its designated vendor;
- (4) annual and medically necessary eye examinations;
- (5) medically necessary outpatient mental health services not to exceed 13 visits per year; provided, however, an additional seven outpatient visits may be approved by the division when clinically necessary according to program guidelines; provided further, that no such mental health services shall be provided by the division that would substitute for mental health services required pursuant to chapter 71B;
- (6) dental health services, including preventive dental care; provided, however, that no funds shall be expended for cosmetic or surgical dentistry;
- (7) durable medical equipment up to \$200 per year; provided, however, the division may authorize up to \$500 per year to prevent unnecessary hospitalization for children with chronic medical conditions, so-called, when clinically necessary according to program guidelines; and
- (8) auditory screening.

The division shall establish cost-containment measures designed to ensure that only medically necessary services are reimbursed by said program. Should costs of said program exceed the appropriated funds, the division shall limit enrollment rather than reducing benefits.

The cost of said program shall be funded in part by premiums contributed by enrollees according to the following eligibility categories: households ineligible for medical benefits pursuant to chapter 118E earning less than one hundred fifty percent of the federal poverty level shall not be responsible for contributing to program premium costs; households earning between one hundred fifty and two hundred percent of the federal poverty level, inclusive, shall contribute not less than twenty percent and not more than thirty percent of the monthly premium cost according to a sliding scale established by the division; provided, that additional contributions shall not be required for any enrollee after the third enrollee in such a household; households earning between two hundred and four hundred percent of the federal poverty level shall pay a monthly premium of \$45.32, provided that premium amounts in this category may be adjusted from time to time by the division; provided, that enrollees in households earning more than four hundred percent of the federal poverty level shall pay the full premium cost of said program. Household earnings may be defined on the basis of gross earnings, or on an adjusted basis according to criteria deemed appropriate by the division. The department shall base premium costs on an actuarially sound methodology.

Notwithstanding the premium contribution requirements established by this section, no enrollee shall be exempt from the co-payment requirements established herein or by the division. Said co-payments shall be designed to encourage the cost-effective and cost conscious use of said services.

The division shall promulgate regulations necessary to implement the requirements of this section and shall maximize federal financial participation for state expenditures made on behalf of program enrollees.

The division shall report quarterly to the house and senate committees on ways and means and to the joint committee on health care on enrollment demographics, claims expenditures and the annualized costs of said program. The division shall file notice with said committees and the secretary of the executive office of administration not less than thirty days before modifying program benefits and eligibility standards that are intended to ensure that program costs are limited to the funds appropriated therefore.

The program established by this section shall not give rise to enforceable legal rights in any party or an enforceable entitlement to the services funded herein and nothing stated herein shall be construed as giving rise to such enforceable legal rights or such enforceable entitlement.

SECTION 320. The first paragraph of section 12 of chapter 118E of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by adding the following two sentences:— The division or department, as appropriate, shall adopt and amend regulations, in accordance with chapter 30A, for the administration of its duties and powers and to effectuate the provisions and purposes of this chapter. Regulations which restrict coverage or covered services shall be adopted only after public notice and hearing.

SECTION 321. Subsection (2) of section 16D of said chapter 118E, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 10 to 12, inclusive, the words "which shall not be less than the same benefits provided on July 1, 1997 to the eligibility group described in clause (g) of subsection (2) of section 9A,".

SECTION 322. Said section 16D of said chapter 118E, as so appearing, is hereby amended by adding the following subsections:—  
(3) Benefits for aliens under this section shall not be provided to persons age 19 or older; but the benefits shall not be terminated for persons described in clauses (i), (ii), (iii) and (iv) of subsection (2).

(4) Before termination of eligibility under the authority of subsection (3), the division shall review eligibility to assure that all federally eligible aliens are identified and their costs of coverage reimbursed by the federal Medicaid program to the greatest extent possible consistent with federal law.

(5) The division shall review all claims for services to aliens to assure that all emergency services are reimbursed by the federal Medicaid program to the greatest extent possible consistent with federal law, including coverage for chronic medical conditions, which, if left untreated, could reasonably be expected to place the persons' health in serious jeopardy, cause serious impairment to bodily functions or cause serious dysfunction of any bodily organ or part.

(6) Notwithstanding subsection (3), if appropriations permit, the division shall determine eligibility in accordance with subsection (1) and (2).

SECTION 323. Section 21A of said chapter 118E, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:—

(c) In making determinations under this section, the division shall revise the community spouse resource allowance as permitted or required by federal law. Either spouse shall have the right to request a fair hearing at which, if it is shown that the income of the community spouse is less than the minimum monthly maintenance needs allowance of the community spouse, the referee shall revise the community spouse resource allowance, using methods permitted or required by federal law, to a level sufficient to generate the shortfall in income. The division shall calculate interest income on the investment of the community spouse resource allowance using the rates reported in the Bank Rate Monitor Index on the date of the hearing.

SECTION 324. Section 22 of said chapter 118E, as most recently amended by section 25 of chapter 177 of the acts of 2001, is hereby further amended by adding the following paragraph:—

Notwithstanding any general or special law or rule or regulation to the contrary, all insurers doing business in the commonwealth, shall provide information requested by the department of transitional assistance and the division of medical assistance for use by those agencies for the purpose of recovering public assistance benefits under this section and section 5G of chapter 18.

SECTION 325. The sixth paragraph of section 23 of said chapter 118E of the General Laws, as amended by section 26 of chapter 117 of the acts of 2001, is hereby amended by adding the following sentence:— All public and private entities who employ individuals in the commonwealth shall provide, when requested by any employee applying for or receiving benefits provided by the division, written information to the employee describing the availability of health insurance, if any, provided by or through the employer. The failure of an employer to provide an employee with the information shall not be grounds for denial of benefits by the division.

SECTION 326. The last paragraph of section 25 of said chapter 118E of the General Laws, as amended by said section 98 of said chapter 184 of the acts of 2002, is hereby further amended by striking out the last sentence and inserting in place thereof the following sentence:— The division may also require, to the extent permitted by federal law, that recipients be liable for a co-payment of up to \$3 for all other covered services with the exception of mental health and substance abuse services. The division shall establish a per member out-of-pocket cap for all co-payments.

SECTION 327. The second sentence of the last paragraph of section 25 of said chapter 118E, as so appearing, is hereby amended by striking out the figure "\$2" and inserting in place thereof the following:— up to \$3.

SECTION 328. Said section 25 of said chapter 118E, as appearing in the 2000 Official Edition, is hereby amended by adding the following paragraph:—

Nothing in this chapter shall preclude the division from using asset standards in determining the financial eligibility for any benefit; but the division shall submit to the house and senate committees on ways and means and the joint committee on health care a report of changes in asset standards within 30 days of implementation, and shall submit 4 quarterly reports, beginning 3 months after any new asset standards are implemented, detailing the effect the standards on the number of people applying for or terminated from MassHealth.

SECTION 329. Section 31 of said chapter 118E, as so appearing, is hereby amended by striking subsection (c) and inserting in place thereof the following two subsections:—

(c) This subsection shall apply to the estates of individuals dying prior to July 1, 2003. For purposes of this section, "estate" shall mean all real and personal property and other assets includable in the decedent's probate estate under the General Laws.

(c1/2) This subsection shall apply to the estates of individuals dying on or after July 1, 2003. For purposes of this section, "estate" shall mean any interest in real and personal property and other assets in which the individual immediately prior to death had any legal title or interest, to the extent of such interest. This includes interests in real and personal property and other assets that would pass to a survivor, heir, or assignee of the decedent through joint tenancy, tenancy by the entirety, life estate, living trust, right of survivorship, beneficiary designation, or other arrangement.

SECTION 330. Said chapter 118E is hereby further amended by striking out section 32, as so appearing, and inserting in place thereof the following section:—

Section 32. (a) Notwithstanding the provisions of any general or special law to the contrary, a petition for admission to probate of a decedent's will or for administration of a decedent's estate shall include a sworn statement that copies of said petition and death certificate have been sent to the division by certified mail. Within 30 days of a request by the division, or upon their own initiative, an

executor or administrator of the probate estate, or the family, guardian, conservator, or heirs of a decedent shall complete and send to the division by certified mail on a form prescribed by the division information about all real and personal property and other assets in which the decedent immediately prior to death held any legal title or interest, including the identity and addresses of all persons and entities to whom legal title or interest passed, and shall provide such further information as the division may require. In the event a petitioner fails to send copies of the petition and death certificate to the division, or the executor or administrator or the family, guardian, conservator, or heirs of a decedent fail to complete and send the form prescribed by the division, and the decedent received medical assistance for which the division is authorized to recover under section 31, any person receiving a distribution of assets from the decedent's estate or any person or entity to whom the decedent's legal title or interest passed, shall be liable to the division to the extent of such distribution. Further, in the case of real and personal property and other assets not includable in the decedent's probate estate under the General Laws, if the form received by the division fails to disclose the existence of any assets or property in which the decedent immediately prior to death held any legal interest or title, and the identity and address of the person or entity to whom legal title or interest passed, said form shall not be considered a completed form and the time period for the division to present its claim against said assets and property shall not begin to run under clause (2) of subsection (b) until such information is received by the division.

(b) The division may present claims after an individual's death as follows:

(1) With respect to claims against all real and personal property and other assets includable in the decedent's probate estate under the General Laws, the division may:

(i) within four months after approval of the official bond of the executor or administrator, file a written statement of the amount claimed with the registry of probate where the petition was filed and deliver or mail a copy thereof to the executor or administrator. The claim shall be deemed presented upon the filing of the claim in the registry of probate; or

(ii) within one year after date of death of the decedent, commence an action under the provisions of section 9 of chapter 197.

(2) With respect to claims filed against any real and personal property and other assets not includable in the decedent's probate estate under the General Laws, but in which the decedent immediately prior to death had any legal title or interest, the division may within one year of date of death, or within four months of receipt of the completed form prescribed under (a), whichever is later, deliver or mail a written statement of the amount claimed to the last known address of the person or entity to whom the decedent's legal title or interest passed, and in the case of real property, file written notice of the claim with the registry of deeds where the property lies. The claim shall be deemed presented upon the delivery or mailing of the written statement to the last known address of the person or entity to whom the decedent's legal title or interest passed, or in the case of real property, the date notice is filed with the registry of deeds. Notice filed with the registry of deeds shall include the name and social security number of the decedent, the amount of the claim, the name of the then current record owner or owners, and the book and page number or certificate number of the instrument of title. No claim or lien under this section shall be valid against any bona fide purchaser for value taking title prior to the date said notice referring to the affected real property has been recorded in the registry of deed in the county or registry district where the real property is located, or against any successor to such purchaser, nor shall it affect the interest of any person for whom a mortgage or other lien has been recorded prior thereto, or of any successor to said person; and there shall be no right of recovery against such purchaser or the holder of such interest, or their successors. In the case of annuities and life insurance policies held on the life of a decedent age 55 or older, the company or institution holding the asset shall prior to making payment to a survivor, designated beneficiary or other person or entity notify the division to determine whether the decedent had received medical assistance subject to recovery under section 31. The notice shall include the name, address, date of birth, and social security number of the decedent, the name and address of the survivor, designated beneficiary, or other person or entity seeking payment, and such other information appearing in the company's or institution's files as the division may require. The division shall respond to such notice within 10 days of receipt. If the division had provided assistance subject to recovery under section 31, the division's response shall operate as a lien to secure repayment of its claim. If the company or institution disburses funds prior to 14 days after sending notice to the division, or at anytime while the division has a lien against such funds, the company or institution shall be liable to the division to the extent of the value of the asset or the amount of the division's claim, whichever is less. Notwithstanding the foregoing, the company or institution may disburse funds prior to 14 days if it receives notice from the division that no assistance subject to recovery under section 31 was provided. If the individual or entity to whom the decedent's legal title or interest passed transfers or sells said property or asset prior to the division presenting its claim, that individual or entity shall be held personally liable to the division to the extent of the value of the decedent's legal title or interest, and in the case of real property, no written notice of the claim need be filed with the registry of deeds.

(c) When presenting its claim by written statement under subsection (b), the division shall also notify the executor or administrator, or the person or entity to whom legal title or interest passed, if the property or asset is not includable in the probate estate of (1) the circumstances and conditions which must exist for the division to be required to defer recovery under section 31 and (2) the circumstances and conditions which must exist for the division to waive recovery under its regulations for undue hardship.

(d) The executor or administrator, or if the property or asset is not includable in the probate estate, the person or entity to whom the notice was sent, shall have 60 days from the date of presentment to mail notice to the division by certified mail of one or more of the following findings: (1) the claim is disallowed in whole or in part, or (2) circumstances and conditions where the division is required to defer recovery under section 31 exist, or (3) circumstances and conditions where the division will waive recovery for undue hardship under its regulations exist. A notice under clause (2) or (3) shall state the specific circumstances and conditions which exist and provide supporting documentation satisfactory to the division. Failure to mail notice under clause (1) shall be deemed an allowance of the claim. Failure to mail notice under clause (2) shall be deemed an admission that the circumstances or conditions where the division is required to defer recovery under section 31 do not exist. Failure to mail notice under clause (3) shall be deemed an admission that the circumstances and conditions for the division to waive recovery for undue hardship under its regulations do not exist.

(e) If the division at any time within the period for presenting claims under subsection (b) amends the amount due, the executor or administrator, or if the property or asset is not includable in the probate estate, the person or entity to whom notice was sent, shall have an additional 60 days to mail notice to the division under clause (1) of subsection (d).

(f) If the division receives a disallowance under clause (1) of subsection (d), the division may commence an action to enforce its claim in a court of competent jurisdiction within 60 days after receipt of said notice of disallowance. If the division receives a notice under clause (2) or (3) of said subsection (d), with which it disagrees, the division may commence an action in a court of competent jurisdiction within 60 days after receipt of said notice. If the division fails to commence an action after receiving a notice under clause (2) of said subsection (d), the division shall defer recovery while the circumstances or conditions specified in said notice continue to

exist. If the division fails to commence an action after receiving a notice under clause (3) of said subsection (d), the division shall waive recovery while the circumstances and conditions for undue hardship continue to exist or as provided for under its regulations. (g) Unless otherwise provided in any judgment entered, claims allowed pursuant to this section shall bear interest at the rate provided under section 6B of chapter 231 commencing as follows:

(1) In the case of a claim against the probate estate, four months plus 60 days after approval of the official bond of the executor or administrator.

(2) In the case of a claim against property or assets not includable in the probate estate, 60 days after (i) the written statement was mailed to the person or entity to whom the decedent's legal title or interest passed, or (ii) in the case of real property, the date notice is filed with the registry of deeds, whichever is later.

Notwithstanding the foregoing, if the division fails to commence an action after receipt of a notice under clause (2) or (3) of subsection (d), interest at the rate provided under section 6B of chapter 231 shall not commence until the circumstances or conditions specified in the notice received by the division cease to exist. The executor or administrator, or if the property or asset is not includable in the probate estate, the person or entity to whom legal title or interest passed, shall notify the division within 30 calendar days of any change in the circumstances or conditions asserted in said clause (2) or (3) notice, and upon request by the division, shall provide updated documentation verifying that the circumstances or conditions continue to exist.

If the division's claim has been allowed as provided herein and no circumstances and conditions requiring that the division defer recovery under section 31 exist, it may petition the probate court for an order directing the executor or administrator to pay the claim to the extent that funds are available or for such further relief as may be required. Where the claim is against property or assets not includable in the probate estate, the division may commence such action against the person or entity to whom legal title or interest passed.

(h) Notice of a petition by an executor or administrator for a license to sell real estate shall be given to the division in any estate where:

(1) the division has filed a written statement of claim with the registry of probate as provided in subsection (b); or

(2) the division has filed with the registry of probate a notice, as prescribed under subsection (a) of section 9 of chapter 197, that an action has been commenced.

(i) In all cases where:

(1) the division determines it may have a claim against a decedent's estate;

(2) a petition for administration of the decedent's estate or for admission to probate of the decedent's will has not been filed; and

(3) more than one year has passed from the decedent's date of death, the division is hereby authorized to designate a public administrator to be appointed and to serve pursuant to chapter 194. Said designation by the division shall include a statement of the amount claimed. This provision shall apply to all estates in which no petition for administration of the decedent's estate or for admission to probate of the decedent's will has been filed as of the effective date of this section, regardless of the decedent's date of death.

(j) If the executor or administrator, or the person or entity to whom legal title or interest passed, wishes to sell or transfer any real property against which the division has filed a lien or claim not yet enforceable because circumstances or conditions specified in section 31 continue to exist, the division shall release the lien or claim if the executor or administrator, or the person or entity to whom legal title or interest passed, agrees to (1) either set aside sufficient assets to satisfy the lien or claim, or to give bond to the division with sufficient surety or sureties and (2) repay the division as soon as the circumstances or conditions which resulted in the lien or claim not yet being enforceable no longer exist. Notwithstanding the foregoing provision or any general or special law to the contrary, the division and the parties to the sale may by agreement enter into an alternative resolution of the division's lien or claim.

(k) If there are probate assets includable in the decedent's probate estate under the General Laws, as well as other real and personal property and assets, not includable in the decedent's probate estate, the division's claim to the extent possible shall be satisfied from the probate estate. Notwithstanding the foregoing, the division's right to recover against the decedent's interest in property or assets not includable in the probate estate shall not be delayed. To the extent recovery is later received from the probate estate, any excess amount recovered shall be distributed on a pro rata basis to any individuals or entities to whom the decedent's legal title or interest title passed outside the probate estate and from whom the division has already recovered.

SECTION 331. Section 51 of said chapter 118E, as so appearing, is hereby amended by striking out, in line 15, the word "review" and inserting in place thereof the following words:- related activities.

SECTION 332. Section 1 of chapter 118G of the General Laws is hereby amended by inserting after the definition of "Comprehensive cancer center" the following definition:-

"Critical access services", those medically necessary health care services which are generally provided only by acute hospitals, as further defined in regulations promulgated by the division.

SECTION 333. Said section 1 of said chapter 118G, as so appearing, is hereby further amended by inserting after the definition of "Eligible person" the following three definitions:-

"Emergency bad debt", bad debt related to emergency services provided by an acute hospital to an uninsured individual.

"Emergency medical condition", a medical condition, whether physical or mental, manifesting itself by symptoms of sufficient severity, including severe pain, that the absence of prompt medical attention could reasonably be expected by a prudent layperson who possesses an average knowledge of health and medicine, to result in placing the health of the person or another person in serious jeopardy, serious impairment to body function, or serious dysfunction of any body organ or part, or, with respect to a pregnant woman, as further defined in section 1867(e)(1)(B) of the Social Security Act, 42 U.S.C. section 1395dd(e)(1)(B).

"Emergency services", medically necessary health care services provided to an individual with an emergency medical condition.

SECTION 334. Section 1 of chapter 118G of the General Laws, as so appearing, is hereby amended by inserting after the definition of "Enrollee" the following definition:—

"Executive office", executive office of health and human services.

SECTION 335. Said section 1 of said chapter 118G, as so appearing, is hereby further amended by striking out the definition of "Free care" and inserting in place thereof the following definition:-

"Free care", the following medically necessary services provided to individuals determined to be financially unable to pay for their care, in whole or in part, pursuant to applicable regulations of the division: (1) emergency, urgent, and critical access services provided by acute hospitals; (2) services provided by community health centers; and (3) patients in situations of medical hardship in which major expenditures for health care have depleted or can reasonably be expected to deplete the financial resources of the individual to the extent that medical services cannot be paid, as determined by regulations of the division.

SECTION 336. Section 1 of chapter 118G of the General Laws, as so appearing, is hereby amended by striking out the definition of "Private sector charges" and inserting in place thereof the following definition:-

"Private sector charges", gross patient service revenue attributable to all patients less gross patient service revenue attributable to Titles XVIII and XIX, other publicly aided patients, free care and bad debt. For the purposes of determining a hospital's liability to the Uncompensated Care Trust Fund under this Chapter, regardless of actual Title XVIII gross patient service revenue, Title XVIII gross patient service revenue will be attributed to any free standing pediatric hospital before determining private sector charges. Such attributed revenue will equal the average Title XVIII gross patient service revenue as a percent of total gross patient service revenue for all hospitals in the state excluding free standing pediatric hospitals. This average percent is to be applied against a free standing pediatric hospital's total gross patient service revenue to determine the attributed Title XVIII gross patient service revenue at such hospital before determining private sector charges.

SECTION 337. Said section 1 of said chapter 118G, as so appearing, is hereby further amended by inserting after the definition of "Resident" the following definition:—

"Secretary", the secretary of health and human services.

SECTION 338. The second paragraph of section 2 of said chapter 118G, as so appearing, is hereby amended by striking out clause (b).

SECTION 339. Said chapter 118G is hereby further amended by inserting after section 2, as so appearing, the following section:—

Section 2A. The secretary shall establish rates of payment for health care services. The secretary shall have the sole responsibility for establishing rates to be paid to providers for health care services by governmental units, including the division of industrial accidents. The rates shall be adequate to meet the costs incurred by efficiently and economically operated facilities providing care and services in conformity with applicable state and federal laws and regulations and quality and safety standards and which are within the financial capacity of the commonwealth. The secretary shall have the sole responsibility for establishing fair and adequate charges to be used by state institutions for general health supplies, care and rehabilitative services and accommodations, which charges shall be based on the actual costs of the state institution reasonably related, in the circumstances of each institution, to the efficient production of the services in the institution and shall also have sole responsibility for determining rates paid for educational assessments conducted or performed by psychologists and trained, certified educational personnel pursuant to the tenth paragraph of section 3 of chapter 71B, notwithstanding any general or special law or rule or regulation to the contrary.

SECTION 340. Section 7 of said chapter 118G, as so appearing, is hereby amended by striking out, in lines 1, 17, 25, 40, 41, 58, 74, 89, 90, 91, 97, 109, 111, 115, 121, 124, 126, 127, 135, 137 and 138, 153, 160, 164, 168, 171, 173, 176, 179, 181, 182, 183, 194 and 197 the word "division", each time it appears, and inserting in place thereof, in each instance, the following words:— executive office.

SECTION 341. The tenth paragraph of said section 7 of said chapter 118G, as appearing in section 100 of chapter 184 of the acts of 2002, is hereby amended by striking out the word "division", each time it appears, and inserting in place thereof, in each instance, the following words:— executive office.

SECTION 342. Said section 7 of said chapter 118G, as appearing in the 2000 Official Edition, is hereby further amended by striking out, in line 177 the word "division's" and inserting in place thereof the following words:— executive office's.

SECTION 343. Said section 7 of said chapter 118G of the General Laws, as most recently amended by section 100 of chapter 184 of the acts of 2002, is hereby further amended by striking the twelfth paragraph.

SECTION 344. Section 8 of said chapter 118G, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 7, 10 and 17, the word "division" and inserting in place thereof the following word:— secretary.

SECTION 345. Section 9 of said chapter 118G, as so appearing, is hereby amended by striking out, in lines 3, 21, 31, 35, 41 and 42 the word "division", each time it appears, and inserting in place thereof, in each instance, the following words:— executive office.

SECTION 346. Section 10 of said chapter 118G, as so appearing, is hereby amended by striking out, in lines 10 and 17, the word "division" and inserting in place thereof, in each instance, the following words:— executive office.

SECTION 347. Section 10 of said chapter 118G, as so appearing, is hereby further amended by adding, in line 19, after the word "division" the following words:— or executive office.

SECTION 348. Section 11 of said chapter 118G, as so appearing, is hereby amended by striking out, in lines 54 and 80, the words "division of health care finance and policy" and inserting in place thereof the following words:— executive office.

SECTION 349. Said section 11 of said chapter 118G, as so appearing, is hereby further amended by striking out, in lines 57 and 107, the word "division" and inserting in place thereof the following words:— executive office.

SECTION 350. Section 12 of said chapter 118G, as so appearing, is hereby amended by striking out, in lines 1 and 19, the word “division” and inserting in place thereof, in each instance, the following words:— executive office.

SECTION 351. Section 15 of said chapter 118G, as so appearing, is hereby amended by striking out, in lines 5 and 6, the words “division of health care finance and policy” and inserting in place thereof the following words:— executive office.

SECTION 352. Section 17 of said chapter 118G, as so appearing, is hereby amended by striking out, in line 2, the word “division” and inserting in place thereof the following words:— executive office.

SECTION 353. Subsection (a) of section 18 of chapter 118G, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following sentence:— The purpose of said fund is to reimburse hospitals and community health centers for care provided to low-income, uninsured and underinsured residents of the commonwealth.

SECTION 354. Said subsection (i) of said section 18 of said chapter 118G, as so appearing, is hereby further amended by striking out the fifth sentence and inserting in place thereof the following sentence:- The division shall implement a utilization review program designed to monitor the appropriateness of services paid for by said pool and to promote the delivery of care in the most appropriate setting; provided, further, that the division may deny payment from the pool for services which it determines are not medically necessary.

SECTION 355. Subsection (k) of said section 18 of said chapter 118G, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentences:- The division, in conjunction with the division of medical assistance, shall promulgate regulations to develop and implement procedures to verify the eligibility of individuals for free care and to ensure that other coverage options are utilized fully before free care is granted. Said regulations shall require that the division of medical assistance review all applications for free care to determine whether the applicant is eligible for medical assistance pursuant to chapter 118E and whether any third party is financially responsible for the costs of care provided to the applicant.

SECTION 356. Subsection (l) of said section 18 of said chapter 118G, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— The division shall enter into interagency agreements with the department of revenue to verify income data for recipients of free care and to recover payments made by the pool on behalf of individuals who are ineligible for free care or on whose behalf the pool has paid for emergency bad debt.

SECTION 357. Said subsection (l) of said section 18 of said chapter 118G, as so appearing, is hereby further amended by adding the following paragraph:—  
The division shall promulgate regulations requiring acute hospitals to submit data that will enable the department of revenue to pursue recoveries from individuals who are ineligible for free care payments and on whose behalf the pool has made payments to acute hospitals for emergency bad debt.

SECTION 358. Said section 18 of said chapter 118G, as so appearing, is hereby further amended by striking out subsection (m) and inserting in place thereof the following subsection:-  
(m) The division shall deposit any amounts received pursuant to chapter 62D in the Uncompensated Care Trust Fund to reimburse the uncompensated care pool for expenditures made for persons who received free care through said pool or on whose behalf the pool paid emergency bad debt and who, upon review, were determined to be ineligible for free care based upon applicable income standards.

SECTION 359. Subsection (n) of said section 18 of said chapter 118G, as so appearing, is hereby amended by adding the following paragraph:—  
The division shall establish fines or penalties not to exceed \$10,000 per diversion for any hospital which diverts a free care patient from care at the hospital without the consent of the hospital to which the patient is being diverted. Any amount collected shall be deposited into the Uncompensated Care Trust Fund.

SECTION 360. Subsection (c) of section 25 of said chapter 118G, as amended by chapter 184 of the acts of 2002, is hereby further amended by adding the following sentence:— The division may require additional reports, including but not limited to monthly census data, as it considers necessary to monitor collections and compliance.

SECTION 361. (A) Section 26 of chapter 118G of the General Laws, as inserted by section 101 of the chapter 184 of the acts of 2002, is hereby amended by striking out the definition of “pharmacy” and inserting in place thereof the following definition:-  
“Pharmacy,” any provider of “outpatient prescription drugs” within the class of providers of such services under 42 U.S.C. section 1396b(w)(7)(A)(vii) that dispenses drugs to individuals pursuant to a prescription, including any pharmacy or retail drug business as defined in section 1 of chapter 94C, hospital outpatient pharmacies, community health center pharmacies, clinic pharmacies, and any other providers that the division determines must be included for the assessment to qualify as a broad-based health care related fee under 42 U.S.C. 1396b(w)(3)(B).  
(B) Section 186 of chapter 184 of the acts of 2002 is hereby repealed.  
(C) By the enactment of subsection (A), the general court clarifies its original intention that the assessment established in section 26 of chapter 118G shall be imposed on all providers of outpatient prescription drugs necessary to satisfy the requirements for a broad-based health care related fee under 42 U.S.C. section 1396b(w)(3)(B). By the enactment of subsection (B), the general court clarifies its original intention that federal financial participation be available for MassHealth expenditures funded in part or in whole by revenues collected from the assessments established in sections 25 and 26 of chapter 118G, but that there be no procedural barriers to collecting such assessments and making such expenditures.  
(D) This section shall take effect as of July 1, 2002.

SECTION 362. Subsection (c) of said section 26 of said chapter 118G, as so inserted, is hereby amended by adding the following sentence:— The division may require additional reports as it considers necessary to monitor collections and compliance.

SECTION 363. The third sentence of subsection (d) of said section 26 of said chapter 118G, as so inserted, is hereby amended by striking out the words “nursing home” and inserting in place thereof the following word:— pharmacy.

SECTION 364. Section 2 of chapter 119A of the General Laws, as so appearing, is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:—

(c) In carrying out said responsibilities, the IV-D agency may expend such funds necessary for public information, including paid advertisements and outreach programs to advise the public of the services available through the agency to establish, modify, or enforce orders of child support, and to publicize the availability and to encourage the use of procedures for voluntary acknowledgment of paternity and of other IV-D services. Any penalty, fee or interest that this chapter authorizes to be assessed by the IV-D agency shall be collected and enforced by any means authorized under this chapter for the enforcement and collection of child support. Upon collection, a penalty or fee shall be retained by the IV-D agency; but the penalties or fees may only be expended subject to appropriation. Upon collection, interest shall be distributed to the obligee.

SECTION 365. Section 11 of chapter 120 of the General Laws, as so appearing, is hereby amended by striking out, in lines 11 and 12, and in line 17, the words “commissioner of environmental management” and inserting in place thereof, in each instance, the following words:— commissioner of conservation and recreation.

SECTION 366. The first paragraph of section 32 of said chapter 121B, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following 5 sentences:— To this end, an authority shall fix the rents for dwelling units in its projects in accordance with regulations issued by the department, so that no tenant shall be required to pay a rental of more than 32 percent of his income if heat, cooking fuel and electricity are provided by the authority, 30 percent of his income if one or more utility is provided, or 27 percent of his income if such utilities are not provided; provided however, that in calculating the amount of such rental, an authority may round the amount of such rental payment to the nearest whole dollar. Notwithstanding the provisions of section 49 of chapter 271, the authority may impose a late penalty of \$25 for failure to pay rent due. For the purpose of determining continued eligibility, pursuant to regulations of the department, the authority shall determine the appropriate unit size based on the composition of each tenant household. If a tenant is determined to be overhoused, such tenant shall be subject to transfer to a unit of appropriate size, as required by the lease. If an overhoused tenant household refuses a transfer to an available unit of appropriate size, the tenant shall be subject to a minimum rental fee of 150 percent of the tenant's rent.

SECTION 367. Section 1 of chapter 124 of the General Laws, as so appearing, is hereby amended by adding the following clause:— (u) adopt policies and procedures establishing reasonable fees for maintenance and administration of inmate accounts maintained at any state correctional facility. The commissioner may charge each inmate reasonable fees for the maintenance and administration of inmate accounts and may deduct such fees from each inmate's accounts.

SECTION 368. The parole board shall assess upon every person granted a parole permit a monthly parole supervision fee of \$50, hereinafter referred to as a "parole fee". Said, person shall pay said parole fee once each month during such time as said person remains on parole. The parole board shall develop a schedule for the monthly payment of said fee for each parolee that is assessed. The parole board may waive payment of said parole fee only if it determines that such payment would constitute an undue hardship on said person or his family due to limited income, employment status, or any other relevant factor. Any such waiver so granted shall be in effect only during, the period of time that said person is determined to be unable to pay the monthly parole fee. The parole board shall establish procedures relative to the collection and waiver of such fee by regulation. Said parole fee shall be collected by the parole board and shall be transmitted to the treasurer for deposit into the General Fund. The parole board shall account for all such fees assessed, received and waived and shall report such data annually to the secretary of administration and finance and the house and senate committees on ways and means.

The parole board shall also assess upon every such person granted a parole permit a monthly parolee victim services surcharge of \$5, hereinafter referred to as a "parolee victim services surcharge". Said person shall pay said parolee victim services surcharge once each month at such time as said person pays the \$50 parole fee required by this section. The parole board may waive payment of said surcharge only if it determines that such payment would constitute an undue hardship on said person or his family due to limited income, employment status, or any other relevant factor. Any such waiver so granted shall be in effect only during the period of time that said person is determined to be unable to pay the monthly parolee victim services surcharge. The parole board shall establish procedures relative to the collection and waiver of such fee by regulation. Said parolee victim services surcharge shall be collected by the parole board and shall be transmitted to the treasurer for deposit into the General Fund of the commonwealth. The parole board shall account for all such fees assessed, received and waived and shall report such data annually to the secretary of administration and finance and the house and senate committees on ways and means.

SECTION 369. Section 83A of chapter 127 of the General Laws, as so appearing, is hereby further amended by striking out, in lines 4 and 5, lines 8 to 10, inclusive, and in lines 16 to 18, inclusive the words “commissioner of environmental management or of the metropolitan district commission, as the case may be” and inserting in place thereof, in each instance, the following words:— commissioner of conservation and recreation.

SECTION 370. Said section 83A of said chapter 127, as so appearing, is hereby further amended by striking out, in lines 14 and 15, the words “under the control of the metropolitan district commission” and inserting in place thereof the following words:— within the urban parks district.

SECTION 371. Section 1 of chapter 128 of the General Laws, as so appearing, is hereby amended by striking out, in lines 3, 4 and 6, each time they appear, the words “food and agriculture” and inserting in place thereof, in each instance, the following words:— agricultural resources.

SECTION 372. Said section 1 of said chapter 128, as so appearing, is hereby further amended by striking out, in lines 4 and 5, the words “sixteen to thirty-one” and inserting in place thereof the following words:— 16 to 31A.

SECTION 373. Section 2A of said chapter 128, as so appearing, is hereby amended by striking out, in line 5, the word “ten” and inserting in place thereof the following figure:— 20.

SECTION 374. Said section 2A of said chapter 128, as so appearing, is hereby further amended by striking out, in lines 8 and 10, the word “fifteen”, each time it appears, and inserting in place thereof, in each instance, the following figure:— 30.

SECTION 375. Said section 2A of said chapter 128, as so appearing, is hereby further amended by striking out, in line 16, the word “two” and inserting in place thereof the following figure:— 4.

SECTION 376. Section 2B of said chapter 128, as so appearing, is hereby amended by striking out, in line 3, the word “fifty” and inserting in place thereof the following figure:— 100.

SECTION 377. Said chapter 128 is hereby amended by inserting after section 7, as so appearing, the following 5 sections:—

Section 7A. The following words as used in the following 5 sections, unless the context otherwise requires, shall have the following meanings:

“Agriculture” and “farming”, as defined in section 1A of chapter 128.

“Arbor”, an area of land devoted to the propagation and cultivation of fruitbearing trees and shrubs, and nut trees.

“Bureau”, the bureau of land use in the division of agricultural development.

“Chief”, the chief of the bureau of land use.

“Elderly persons of low income”, persons who are age 65 or over and whose annual income is less than the amount necessary to enable them to maintain a decent standard of living, except that where there exists a surplus of land appropriate for garden use, the age requirement may be reduced by the director to age 62; but the oldest of the applicants between 62 and 65 shall be given preference.

“Families of low income”, families and persons whose net annual income is less than the amount necessary to enable them to maintain a decent standard of living.

“Farm”, a body of land devoted to agriculture.

“Garden”, a piece of land appropriate for the cultivation of herbs, fruits, flowers, or vegetables.

“Use”, when applied to gardening; to make use of, without conveyance of title or any other ownership.

“Vacant public land”, any land owned by the commonwealth, or any county or municipality therein, that is not in use for public purpose.

Section 7B. Any person may make application to the bureau of land use on a form to be furnished by the bureau for a permit to use available vacant public land for garden, arbor, or farm purposes. Applicants shall submit a plan for said use and shall agree to maintain the land in a condition consistent with said land use plan, and shall agree to abide by the rules and regulations promulgated by said bureau. Failure to carry out the conditions of agreement shall result in the forfeiture of the garden, arbor or farm permit. Any person who is granted the use of garden, arbor, or farm land shall indemnify and save harmless the commonwealth, the department of agricultural resources and all of its officers, agents and employees against suits and claims of liability of each name and nature arising out of, or in consequence of the use of vacant public land.

Section 7C. Priority in the allotment of vacant public land for garden and arbor purposes shall be given to elderly persons of low income, families of low income and children between the ages of 7 and 16. Products grown in gardens and arbors shall not be sold.

Section 7D. The bureau shall, with the cooperation of other state agencies and cities and towns, compile a list of all vacant land, that in the opinion of the agencies and cities and towns, can be feasibly used for gardening, arbor culture or farming. The bureau shall, by letters of agreement, contract with such agencies or cities and towns for the use of said vacant land. Contracts may contain a termination date. If no date is determined, either party may terminate the contract by written notice given within 60 days; but no contract shall be terminated until the end of the harvest season. The bureau shall notify the gardeners or farmers of the notice of termination.

Section 7E. Owners of land may make available to the bureau parcels of land for the purposes set forth in section 7B under terms and conditions agreed upon between the owners and the bureau, and the commonwealth, the department and all of its officers, agents and employees shall be saved harmless as provided in section 7B.

Section 7F. The commissioner after a public hearing shall adopt and promulgate rules and regulations in accordance with chapter 30A and consistent with sections 7A to 7E, inclusive of this chapter.

SECTION 378. Section 8B of said chapter 128, as so appearing, is hereby amended by striking out, in line 14, the word “three” and inserting in place thereof the following figure:— 25.

SECTION 379. Said chapter 128 of the General Laws is hereby amended by inserting after section 13, as so appearing, the following 2 sections:—

Section 13A. The Milk Producers Security Fund, established by section 48 of chapter 10, shall be for the purpose of reimbursing Massachusetts producers who sold milk to a dealer when the dealer has defaulted in the timely payment for the milk under chapter 94A, or orders, rules or regulations issued under the authority thereof, or of a federal milk marketing order. Each producer shall notify the commissioner in writing of any default in the payment within 90 days after the date on which payment of milk is regularly due. If there is reason to believe that the dealer is in arrears in his payments to producers for milk received by him, the commissioner shall give notice to all producers so affected to file verified claims with the commissioner. The commissioner shall examine all claims so filed and shall certify the amounts determined to be due thereon, and transmit the same for payment to the state treasurer under section 48 of chapter 10.

Section 13B. The dealer of milk in the commonwealth who first received milk from Massachusetts producers, shall pay on or before the due date of payment to the producers, the amount of 5 cents per 100 weight on the volume of all the milk purchased from the producers and the payments shall be deposited with the state treasurer in the Milk Producers Security Fund established by section 48



of chapter 10. Payment as provided in this section shall be made for all milk shipped to a dealer by a producer who is not a member of a cooperative association which guarantees payment where there is a default in the payment for milk. Payment shall be deducted by the dealer from monies owed by the dealer to the producers in the amount of 5 cents per 100 weight.

The commissioner may suspend the requirements of the previous paragraph from time to time for such a length of time he considers necessary, but not exceeding 2 years, upon determination that the interests of the producers would be best served by a suspension. The commissioner shall not suspend these requirements if the balance of the fund does not exceed \$1,000,000. The commissioner shall provide 30 days' written notice of any suspension or reinstatement of payments into the fund to the house and senate committees on ways and means and to all dealers and producers affected.

SECTION 380. Said chapter 130 of the General Laws is hereby amended by inserting after section 1, as so appearing, the following 2 sections:—

Section 1A. The division of marine fisheries shall be within the department of fisheries, wildlife and environmental law enforcement in the executive office of environmental affairs and shall be under the administrative supervision of a director who shall be called the director of marine fisheries. The director of the division of marine fisheries shall be appointed and may be removed by the commissioner of the department of fish and game with the approval of the marine fisheries advisory commission. The said division of marine fisheries shall administer all the laws relating to marine fisheries as appearing in chapter one hundred and thirty and any other general or special laws, except as pertain to the enforcement thereof. It shall be responsible for the biological development of marine fish and fisheries. Said division shall co-operate with all departments, boards, officials and institutions of the commonwealth or its subdivisions that may be concerned in any way with matters under its supervision. It shall co-operate with adjoining states and with the United States of America, or any agency thereof, with foreign countries, and any other agency, as may be authorized by the general court, and receive and dispense such funds from any of such agencies, states or governments as may be authorized by the general court.

Section 1B. There shall be in the division of marine fisheries a commission to be known as the marine fisheries advisory commission hereinafter called the commission, which shall consist of nine members, qualified in the field of marine fisheries by training and experience, to be appointed by the governor with the approval of the council. As the term of a member expires, his successor shall be appointed for a term of three years, except that initially three members shall be appointed for terms of two years and three members shall be appointed for terms of one year. The governor may also, with the like approval, fill any vacancy in an unexpired term. No member of the commission shall hold any other position in the department while serving as such, nor for a period of two years thereafter.

The commission shall annually elect its own chairman and clerk and shall keep accurate records of its meetings and hearings and shall meet at least quarterly and at the call of the chairman. A quorum to conduct business shall consist of five members. The commission shall hold public hearings relative to matters within the jurisdiction of the division and shall make recommendations to the director for the proper management and development of the marine fisheries of the commonwealth. The director or his designee shall attend all meetings and hearings of the commission and may present evidence thereat and shall include in his annual report a report of the commission. The members of the commission shall serve without compensation but shall be reimbursed for actual expenses incurred in the performance of their official duties.

SECTION 381. Section 2B of chapter 130 of the General Laws is hereby repealed.

SECTION 382. Section 1 of chapter 131 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 26 and 30, the words "section 6 of chapter 21", each time they appear, and inserting in place thereof, in each instance, the following words:— section 10A of chapter 21A.

SECTION 383. Said chapter 131 is hereby further amended by inserting, after section 1, the following 9 sections:—

Section 1A. The division of fisheries and wildlife shall be within the department of fisheries, wildlife and environmental law enforcement in the executive office of environmental affairs and shall be under the supervision and control of the fisheries and wildlife board, hereinafter called the board, which shall consist of seven members to be appointed by the governor for terms of five years. Five board members shall be appointed from one of each of the five fish and game districts, at least one of whom shall have been actively engaged in farming on land owned by him for a period of not less than five years. Two board members shall be appointed at large, shall be particularly interested in the propagation, protection, research and management of wild birds and mammals and any, so-called, endangered species and one of whom shall be a wildlife biologist.

Section 1B. Board members may be removed by the governor, with the advice and consent of the council, after due notice and a hearing before the governor, for inefficiency, neglect of duty, misconduct in office or other cause. A copy of the charge against a board member shall be delivered to him not less than twenty-one days prior to the hearing, and he shall have the right to a public hearing and to appear in person and be represented by counsel at the hearing. Upon removal of any board member, the governor shall thereupon cause to be filed in the office of the state secretary a complete statement of all charges made against such board member, the findings thereon, and a complete record of the proceedings thereunder. The absence of a board member from three consecutive meetings, except for sickness supported by the certificate of a physician, shall be termed neglect of duty, and shall be a cause for removal as provided herein. In case of resignation, removal or death of a board member, his successor shall be appointed to fill the remainder of the unexpired term in the same manner and subject to the same qualifications as his predecessor. Prior to removal for absences, however, the chairperson of the board shall certify the unexcused absence of the board member from 3 consecutive meetings by filing a certificate to that effect with the commissioner of the department of conservation and recreation and the secretary of the commonwealth. Upon the filing of such certificates, such a member's position shall be deemed vacant and the governor shall appoint a successor.

Section 1C. No board member shall hold any other position in the department of fisheries, wildlife and environmental law enforcement while serving as such, nor for a period of one year thereafter.

Section 1D. The board members shall serve without compensation, but shall be entitled to be reimbursed out of any funds available for the purpose, for their actual traveling and other expenses necessarily incurred in the performance of their official duties, but such reimbursement shall not in any fiscal year exceed three thousand dollars for the total aggregate expenses of all of the board members.

Section 1E. The members of the board shall meet in the commonwealth, within thirty days after their appointment, and once a month thereafter at such times and places in the commonwealth as they may from time to time determine. They shall at least annually choose a chairman and a secretary from among their members, and shall make the appointments required to be made by them in the manner herein provided. Four board members shall constitute a quorum for the transaction of business, except in the case of the appointment or removal of the director of the division or the approval of the appointment or removal of the superintendent of the bureau of wildlife research and management as hereinafter provided for.

No appointment or removal of any person as director or superintendent shall be valid unless written notice of the meeting for such appointment or removal or approval thereof, setting forth the business to be transacted thereat, shall have been sent by registered mail, to each board member, at least twenty-one days prior to such meeting, and then only by the affirmative vote of three or more members present and voting.

Section 1F. The director of the division of fisheries and wildlife shall be appointed and may be removed by the board of the division of fisheries and wildlife and the position of director shall not be subject to the provisions of chapter thirty-one. The director, subject to the approval of the fisheries and wildlife board, may appoint, without regard for the provisions of chapter thirty-one, an assistant director for natural heritage and endangered species and may assign to such assistant director appropriate duties related to the area of natural heritage and endangered species protection and management. The director and assistant director shall be qualified by training and experience to conduct the duties assigned to them. The director, with the approval of the board, may employ such experts, clerks and other employees from time to time, and for such periods as he may determine to be necessary for its operations.

Section 1G. The director shall, under the control of the board, have charge of, direct and supervise all matters relative to the division and the employees therein. He shall carry out the policies promulgated from time to time by the board, shall prepare the annual budget of the division, and shall file the same pursuant to section three of chapter twenty-nine, and within ninety days after the end of each fiscal year, he shall render a complete detailed report of all activities, revenue and expenditures of the division to the board, the general court and the governor and council.

Section 1H. There shall be in the division of fisheries and wildlife, under the control of a director, a bureau of wildlife research and management headed by a superintendent, who shall not be subject to the provisions of chapter thirty-one and who shall be appointed by the director, with the approval of the board, and may be removed by him with like approval. He shall be qualified by training and experience to conduct the duties of his office. The superintendent shall, with the approval of the director, provide for all beneficial forms of wildlife; he shall co-operate with the University of Massachusetts and with federal agencies in all matters pertaining to wildlife research and management, and shall supervise and manage all wildlife sanctuaries which are under the management or control of the division. For the purposes of this section, the word "wildlife" means birds, mammals and inland fish.

The superintendent, subject to the approval of the director, shall conduct such scientific studies as he may deem necessary in the work of the bureau, and, subject to like approval, shall collect, classify and designate such studies, data and information as in his opinion will tend to promote the objects of said bureau.

There shall be a state ornithologist in the bureau of wildlife research and management appointed by the director with the approval of the board. He shall advise and consult with the superintendent concerning the avifauna of the commonwealth.

Section 1I. It shall be the responsibility of the division to provide technical assistance and advice regarding the control or elimination of damage by moose or deer to property which is deemed to be actively devoted to agricultural or horticultural uses as defined by sections one and two of chapter sixty-one A. The director of the division, or his designee, shall respond to all requests for assistance made under the provisions of this section within fifteen days of the receipt of such requests.

SECTION 384. Section 2 of said chapter 131 is hereby repealed.

SECTION 385. Section 2 of said chapter 131, as so appearing, is hereby amended by adding the following 3 clauses:—

(12) For the acquisition by purchase, lease, easement, or license of land or interests therein critical to nongame wildlife and endangered species for the multiple purposes of protecting and enhancing nongame wildlife and encouraging compatible wildlife uses.

(13) For the management, inventory, preservation, protection, perpetuation, and enhancement of nongame wildlife and endangered species in the commonwealth.

(14) For supplementing funds provided to the natural heritage and endangered species program for the purpose of aiding in the protection of rare, threatened, and endangered species in the commonwealth.

SECTION 386. Section 40A of said chapter 131, as so appearing, is hereby amended by striking out, in lines 25 and 26, and in line 94, the words "metropolitan district commission."

SECTION 387. Section 12A of chapter 132 of the General Laws, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "including in such terms of the metropolitan district commission,".

SECTION 388. Section 30 of said chapter 132, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "board of environmental management," and inserting in place thereof the following words:-- stewardship council.

SECTION 389. Section 31 of said chapter 132, as so appearing, is hereby amended by striking out, in line 13, the words "and the board of environmental management".

SECTION 390. Section 32 of said chapter 132, as so appearing, is hereby amended by striking out, in line 2, the words "and the board of environmental management".

SECTION 391. Sections 33, 36 and 36A of chapter 132 of the General Laws are hereby repealed.

SECTION 392. Section 1 of chapter 132A of the General Laws, as so appearing, is hereby amended by striking out, in line 8, the word "metropolitan" and inserting in place thereof the following word:-- urban.

SECTION 393. Said chapter 132A is hereby further amended by inserting, after section 1, the following 7 new sections:--

Section 1B. The division of state parks and recreation shall be under the administrative supervision of a director, who shall be called the director of state parks and recreation. The director shall reside outside the urban parks district defined in the section 33 of chapter 92.

Section 1C. There shall be in the division of forests and parks a bureau of forest fire control under the direction and control of a chief fire warden, a bureau of forestry under the direction and control of a chief forester and a bureau of recreation under the direction and control of a chief of recreation. The director of the division of forests and parks shall, subject to the approval of the commissioner, appoint for a term of five years, outside the provisions of chapter thirty-one, the chief of recreation, who shall be qualified by training and experience to administer the duties of his office. With like approval he may remove the chiefs of the several bureaus.

Section 1D. The bureau of forest fire control shall perform such duties as the director, with the approval of the commissioner, may require, in addition to such other duties as may be required by any general or special laws.

Section 1E. The bureau of recreation shall perform such duties as the director, with the approval of the commissioner, may require, and shall be responsible for such other duties pertaining to administration and management of recreation areas as are now vested in the division of parks and recreation by the general laws or any special laws.

Expenses incurred by the bureau relating to the improvement, development and operation of recreation areas and appurtenant facilities shall be construed as chargeable under the provisions of chapter one hundred and thirty-two A.

Section 1F. The bureau of forestry shall, under the supervision of the director, with the approval of the commissioner perform such duties as respects forest management practices, reforestation, development of forest or wooded areas under the control of the department, making them in perpetuity income producing and improving such wooded areas. It shall be responsible for such other duties as are now vested in the division of forestry by the general laws or any special laws and shall be responsible for shade tree management, arboricultural service and insect suppression of public nuisances as defined in section eleven of chapter one hundred and thirty-two, subject to the approval of the director and, notwithstanding the provisions of any general or special law to the contrary, the bureau may require all tree spraying or other treatment performed by other departments, agencies or political subdivisions to be carried out under its direction. The bureau may promulgate rules and regulations to carry out its duties and powers. It shall assume the responsibilities of section one A of chapter one hundred and thirty-two and shall be responsible for such other duties as are not otherwise vested in the division of forestry; provided, however, that all personnel of the forest, fire, shade tree and pest control units in their respective collective bargaining units at the time of this consolidation to the bureau of forestry shall remain in their respective collective bargaining units.

Section 1G. The director may designate any employee of the division to supervise any of the bureaus during the absence or disability of the chief thereof, and they shall have all the powers required to administer such bureaus, provisions in the general laws to the contrary notwithstanding.

Section 1H. The director of the division of state parks and recreation shall devote his whole time during business hours to the work of the division and shall be responsible for the performance of the functions of the division as specified by law. Each subdivision or section of the division shall be under his direction, control and supervision. The director may appoint and remove such officials and employees as the work of the division may require and may from time to time assign to such officials and employees such duties as the work of the division may require, subject to chapters 30 and 31, except as provided by chapter 583 of the acts of 1947.

SECTION 394. Section 2 of said chapter 132A, as so appearing, is hereby amended by striking out, in line 3, the word "metropolitan" and inserting in place thereof the following word:-- urban.

SECTION 395. Said section 2 of said chapter 132A, as so appearing, is hereby further amended by striking out, in lines 7 and 8, the words "forests and parks in the department of environmental management" and inserting in place thereof the following words:--state parks and recreation in the department of conservation and recreation.

SECTION 396. Section 2C of said chapter 132A, as so appearing, is hereby amended by striking out, in line 5, the words "metropolitan district commission,".

SECTION 397. Section 3 of said chapter 132A of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the word "metropolitan" and inserting in place thereof the following word:-- urban.

SECTION 398. Said section 3 of chapter 132A, as so appearing, is hereby further amended by inserting after the word "department", in line 14, the following words:— and outside the urban parks district.

SECTION 399. Said section 3 of said chapter 132A, as so appearing, is hereby further amended by striking out the last sentence.

SECTION 400. Section 3A of said chapter 132A, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "board of environmental management, the governor and council" and inserting in place thereof the following words:— stewardship council.

SECTION 401. Said chapter 132A is hereby amended by inserting after section 3A, as so appearing, the following section:—

Section 3B. A person shall not acquire any rights by prescription or adverse possession in any lands or rights in lands of the commonwealth under the control of the department of conservation and recreation.

SECTION 402. Section 7 of said chapter 132A, as appearing in the 2000 Official Edition, is hereby amended by striking out the entire section and inserting in place thereof the following section:--

Section 7. The commissioner, in consultation with the director of the division, may make rules and regulations for the government and use of all property under the control of the division, including all roads and highways wholly or in part within the boundaries of such property, including rules and regulations relative to hunting and fishing, except in great ponds not inconsistent with the laws protecting fish, birds and mammals. Such rules and regulations may also provide for the payment of fees and other charges for the parking of vehicles and for the enjoyment of other special privileges within the territory under such control. The commissioner shall

cause such rules and regulations to be posted in the territory to which they apply. The sworn certificate of the director of the division that the same have so been posted shall be prima facie evidence thereof. Violation of such a rule or regulation shall be punished by a fine not exceeding twenty dollars. The commissioner may grant concessions for the sale of refreshments and other articles and the furnishing of services within any such territory.

Forest supervisors, park superintendents and laborers employed by the division, while employed in state forests, state parks or reservations, including roads and highways, shall, within the limits of said forests, parks or reservations, except great ponds, have and exercise all the powers and duties of constables, except service of civil process, and of police officers, if so authorized in writing by the commissioner.

The enforcement officers of the office of law enforcement shall, within the limits of such forests, parks or reservations, including roads and highways, except great ponds, have and exercise all the powers and duties of constables and of police officers except service of civil process.

SECTION 403. Section 7A of said chapter 132A, as so appearing, is hereby amended by inserting after the word “regulation”, in line 46, the following words:—, except a vehicle owned by the commonwealth or a political subdivision or by the United States or an instrumentality thereof or registered by a member of a foreign diplomatic corps or by a foreign consular officer who is not a citizen of the United States and bearing a distinctive number plate or otherwise conspicuously marked as so owned or registered.

SECTION 404. Said section 7A of said chapter 132A as so appearing, is hereby further amended by adding the following sentence:— Liability may be imposed for the reasonable cost of the removal, and for the storage charges, if any, resulting upon the owner of the vehicle.

SECTION 405. Said Chapter 132A is hereby amended by inserting after said section 7A, as so appearing, the following 6 sections:— Section 7B. If money, goods or other property which has been stolen, lost, abandoned or taken from a person under arrest comes into the possession of an employee of the division by virtue of his office or employment, he shall deliver the same to the person designated by the division to receive the same, and he shall then be relieved from further responsibility.

Section 7C. If no person proves ownership of such money, goods or other property within 6 months, the division may cause the goods or other property excepting money unclaimed, to be sold at public auction at a place and time and by a person as the division may designate.

Section 7D. Notice of the time and place of the sale, with a description of the property, shall be given by publishing the same once in a newspaper published in Boston.

Section 7E. The property, if perishable or liable to deteriorate greatly in value by keeping, or the value of which will probably be less than the expense of keeping, may be sold at public auction at a place and at a time within 6 months and by a person as the division may designate, notice of the time and place of sale as the division may consider reasonable and proper first being given.

Section 7F. The proceeds of the sale, together with the unclaimed money, after deducting all reasonable charges and expenses incurred on account of the property, shall be accounted for and paid to the commonwealth.

Section 7G. If within 2 years after the sale the owner claims the property and proves ownership to the satisfaction of the division, the amount of the unclaimed money or the proceeds of the sale of the property, after deducting reasonable expenses, shall be paid to him by the state treasurer out of the special account, without appropriation.

SECTION 406. Section 8 of said chapter 132A, as so appearing, is hereby amended by striking out, in line 3, the word “metropolitan” and inserting in place thereof the following word:-- urban.

SECTION 407. Section 10 of said chapter 132A is hereby repealed.

SECTION 408. Sections 11A to 11D, inclusive, of said chapter 132A are hereby repealed.

SECTION 409. Section 3A of chapter 132B of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 7 and 8, the words “department of food and agriculture” and inserting in place thereof the following words:— department of agricultural resources.

SECTION 410. Said section 3A of said chapter 132B, as so appearing, is hereby further amended by striking out, in lines 8 and 9, the words “department of environmental management” and inserting in place thereof the following words:— department of conservation and recreation.

SECTION 411. Section 1 of chapter 138 of the General Laws, as so appearing, is hereby amended by striking out, in line 32, the words “forty-three of chapter six” and inserting in place thereof the following words:— 70 of chapter 10.

SECTION 412. Said chapter 138, as so appearing, is hereby amended by striking out section 13 and inserting in place thereof the following section:—

Section 13. A railroad or car corporation operating any line of railroad or furnishing refreshments upon railroad cars within the commonwealth may sell, in any dining, club, buffet or lounge car, alcoholic beverages to be drunk in the cars, if the commission sees fit to issue a license to the railroad or car corporation. The fee for each license under this section shall be \$500 and for each certified copy thereof \$50. An airline corporation operating within the commonwealth may sell in any aircraft alcoholic beverages to be consumed thereon, if duly licensed by the commission. The annual license fee for each airline corporation shall be \$500 and for each certified copy thereof \$50. The commission may also issue licenses to sell alcoholic beverages to the owner or operator of any vessel or shipping company carrying passengers and operating out of any port of the commonwealth. Sales of alcoholic beverages by licensees under this section shall be made only under regulations as the commission may prescribe. The annual license fee for each vessel shall be \$500. Retail sales by ship chandlers of all alcoholic beverages not to be drunk on the premises, may be authorized by the commission, but the sales shall not be for purposes other than provisioning a vessel or shipping company using any port of the

commonwealth. The fee for a license to a ship chandler for the sales shall be not less than \$500 nor more than \$1,000. No other license shall be required under this chapter for sales as authorized under this section.

SECTION 413. The first paragraph of section 18 of said chapter 138 is hereby amended by striking out the last 2 sentences, as so appearing, and inserting in place thereof the following 2 sentences:—

The license fee for a license issued under this section to sell and import all alcoholic beverages shall be \$10,000. The license fee for a license issued under this section to sell and import wines and malt beverages only shall be \$5,000; but the license fee for a license issued under this section to sell wines for sacramental use shall be \$3,000.

SECTION 414. Section 18A of said chapter 138, as so appearing, is hereby amended by striking out, in line 23, the words “one thousand dollars” and inserting in place thereof the following figure:— \$5,000.

SECTION 415. Section 18B of said chapter 138, as so appearing, is hereby amended by striking out, in line 16, the words “shall not exceed ten dollars” and inserting in place thereof the following words:— shall be no less than \$200.

SECTION 416. Section 19 of said chapter 138, as so appearing, is hereby amended by striking out, in lines 41 and 42, the words “not less than two thousand nor more than five thousand dollars” and inserting in place thereof the following words:— not less than \$6,000 nor more than \$10,000.

SECTION 417. Section 19A of said chapter 138, as so appearing, is hereby amended by striking out, in line 9, the words “fifteen dollars” and inserting in place thereof the following figure:— \$200.

SECTION 418. Section 20 of said chapter 138, as so appearing, is hereby amended by striking out the first 3 paragraphs and inserting in place thereof the following 3 paragraphs:—

The commission may grant to any holder of a manufacturer’s, farmer-winery, farmer-brewery or wholesaler’s and importer’s license under this chapter a permit to store in any city or town those alcoholic beverages which the licensees are authorized to manufacture, produce or sell; but there shall not be granted to the manufacturer, farmer-winery, farmer-brewery, or wholesaler and importer, in the aggregate, more than 3 permits in the commonwealth, not more than 1 permit in any city or town. A permit so granted to the holder of the license shall authorize him to deliver the beverages from any place of storage for which he has a permit upon orders, which need not be in writing, received by him at the premises covered by his manufacturer’s, farmer-winery, farmer-brewery or wholesaler’s and importer’s license and transmitted to the place of storage covered by the permit. The commission may establish annual fees thereof not exceeding \$2,000 for any 1 permit.

Special warehouse permits may be granted by the commission for the storage of alcoholic beverages in a duly licensed bonded warehouse. A special permit so granted shall authorize the holder thereof to transfer the beverages between any premises for which he has such special permit and any premises covered by his manufacturer’s, farmer-winery, farmer-brewery or wholesaler’s and importer’s license. The fee for a special permit shall be not less than \$125 nor more than \$1,000.

Special seasonal permits may be granted by the commission upon payment of a fee of \$500 for each such permit, which shall authorize any licensee under section 18 or 19 to store malt beverages in the same city or town in which their licensed premises are located; but the storage shall be in a place properly equipped for the refrigeration of malt beverages and that the authorization shall be effective only for the period between April first and October thirty-first in any year.

SECTION 419. Section 20A of said chapter 138, as so appearing, is hereby amended by striking out, in line 10, the words “ten dollars” and inserting in place thereof the following figure:— \$500.

SECTION 420. Section 22 of said chapter 138, as so appearing, is hereby amended by striking out, in line 20, the words “thirty dollars” and inserting in place thereof the following figure:— \$150.

SECTION 421. Said section 22 of said chapter 138, as so appearing, is hereby further amended by striking out, in line 25, the words “three hundred dollars” and inserting in place thereof the following figure:— \$1,500.

SECTION 422. Said section 22 of said chapter 138, as so appearing, is hereby further amended by striking out, in line 31, the words “twenty-five dollars” and inserting in place thereof the following figure:— \$150.

SECTION 423. Said section 22 of said chapter 138, as so appearing, is hereby further amended by striking out, in line 34, the words “five dollars” and inserting in place thereof the following figure:— \$50.

SECTION 424. Section 35 of chapter 138 of the General Laws, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words “metropolitan district commission” and inserting in place thereof the following words:-- commissioner of conservation and recreation.

SECTION 425. Said section 35 of said chapter 138, as so appearing, is hereby amended by inserting after the words “under its care”, in line 3, the following words:— within the urban parks district.

SECTION 426. Section 122 of chapter 140 of the General Laws, as so appearing, is hereby amended by striking out the seventh sentence and inserting in place thereof the following 2 sentences:— The fee for an application for a license issued under this section shall be \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of the fee; \$50 of the fee shall be deposited into the general fund of the commonwealth; and \$25 of the fee shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund.

SECTION 427. Section 122B of said chapter 140, as so appearing, is hereby amended by striking out the fifth sentence and inserting in place thereof the following 2 sentences:— The fee for an application for a license to sell ammunition shall be \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of the fee; \$50 of the fee shall be deposited into the general fund of the commonwealth; and \$25 of the fee shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund.

SECTION 428. Clause (9) of section 129B of said chapter 140, as so appearing, is hereby amended by striking out the fourth and fifth sentences and inserting in place thereof the following 3 sentences:— The fee for the application shall be \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of the fee; \$50 of the fee shall be deposited into the general fund of the commonwealth; and \$25 of the fee shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund; but any renewal applicant for a firearm identification card issued for the sole purpose of purchasing or possessing chemical mace, pepper spray or other similarly propelled liquid, gas or powder designed to temporarily incapacitate shall not be subject to the application fee.

SECTION 429. Subsection (i) of section 131 of said chapter 140, as so appearing, is hereby amended by striking out the fourth sentence and inserting in place thereof the following 4 sentences:— The fee for the application shall be \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of the fee; \$50 of the fee shall be deposited into the general fund of the commonwealth; and \$25 of the fee shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund. For law enforcement officials, or local, state, or federal government entities acting on their behalf, the fee for the application shall be set at \$25, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$12.50 of the fee, and \$12.50 of the fee shall be deposited into the general fund of the commonwealth.

SECTION 430. Section 131A of said chapter 140, as so appearing, is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:—  
The fee for the permits shall be \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of the fee; \$50 of the fee shall be deposited into the general fund of the commonwealth; and \$25 of the fee shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund.

SECTION 431. The fourth paragraph of section 131F of said chapter 140, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following 2 sentences:— The fee for an application for the license shall be \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of the fee; \$50 of the fee shall be deposited into the general fund of the commonwealth; and \$25 of the fee shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund.

SECTION 432. Section 131H of said chapter 140, as so appearing, is hereby amended by striking out the third sentence and inserting in place thereof the following 2 sentences:— The fee for the permit shall be \$100, which shall be payable to the licensing authority and shall not be prorated or refunded in case of revocation or denial. The licensing authority shall retain \$25 of the fee; \$50 of the fee shall be deposited into the general fund of the commonwealth; and \$25 of the fee shall be deposited in the Firearms Fingerprint Identity Verification Trust Fund.

SECTION 433. Section 38 of chapter 149 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words “or the metropolitan district commission”.

SECTION 434. Section 44 of said chapter 149, as so appearing, is hereby amended by striking out, in line 3, the words “, or of the metropolitan district commission”.

SECTION 435. Said section 44 of said chapter 149, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words “by the metropolitan district commission or”.

SECTION 436. Said section 44 of said chapter 149, as so appearing, is hereby further amended by striking out, in line 8, the words “by the said commissioner or”.

SECTION 437. The first paragraph of section 3 of chapter 151B of the General Laws, as so appearing, is hereby amended by adding the following subsection:—

15. To set, charge and retain fees and costs, subject to section 3B of chapter 7, including, but not limited to, training fees and costs incurred responding to requests under the commonwealth’s public records law; provided, that the commission may, where appropriate, provide for the waiver of the fees; to retain reasonable attorney’s fees and costs awarded to a prevailing complainant, under section 5, when one of its attorneys presents the charge of discrimination before the commission on behalf of the prevailing complainant. All amounts received under this clause shall be deposited to the General Fund.

SECTION 438. Section 5 of said chapter 151B is hereby amended by striking out the last paragraph, as so appearing, and inserting in place thereof the following paragraph:—

If, upon all the evidence at any such hearing, the commission shall find that a respondent has engaged in any such unlawful practice, it may, in addition to any other action which it may take under this section, assess a civil penalty against the respondent:

- (a) in an amount not to exceed \$10,000 if the respondent has not been adjudged to have committed any prior discriminatory practice;
- (b) in an amount not to exceed \$25,000 if the respondent has been adjudged to have committed one other discriminatory practice during the 5-year period ending on the date of the filing of the complaint; and
- (c) in an amount not to exceed \$50,000 if the respondent has been adjudged to have committed 2 or more discriminatory practices during the 7-year period ending on the date of the filing of the complaint. Notwithstanding the aforesaid provisions, if the acts

constituting the discriminatory practice that is the object of the complaint are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory practice, then the civil penalties set forth in clauses (b) and (c) may be imposed without regard to the period of time within which any subsequent discriminatory practice occurred.

SECTION 439. Said section 10 of said chapter 152 is hereby further amended by striking out subsection (c) and inserting in place thereof the following subsection:—

(c) In order to increase the marketability of any special obligation bonds described in section 11 and any other bonds issued by the commonwealth which are payable from amounts held in the Convention Center Fund, and thereby ensure the issuance of such bonds at the lowest possible cost to the commonwealth, the special receipts deposited in the Convention Center Fund in accordance with this subsection are hereby impressed with a trust for the benefit of the owners from time to time of such bonds and special receipts shall be applied by the state treasurer without further appropriation to the payment of principal, including sinking fund payments and premium, if any, and interest on such bonds, to the maintenance of, or provisions for, the Capital Reserve Fund described in said section 11, to the payment of the costs of issuance of such bonds and to the payment of the cost of, and the satisfaction of the obligations of the commonwealth under, any surety bond, insurance policy or other form of credit enhancement required or provided for in any trust of security agreement or credit enhancement agreement entered into pursuant to this act to secure such bonds. The state treasurer with the concurrence of the secretary of administration and finance shall determine that sufficient amounts are or will be held in the Convention Center Fund to meet debt service payments and compliance with any applicable restrictions relating thereto including, without limitation, any coverage requirements, contained in any such trust or security agreement or credit enhancement agreement. If the state treasurer and the secretary of administration and finance determine that the balance of the Convention Center Fund exceeds the amount necessary to satisfy the requirement of sufficiency, then the Authority may make expenditures from the Convention Center Fund, in an amount not to exceed such surplus, for the following purposes: (i) to pay costs, not exceeding \$50,000,000, of the heating, ventilating and air conditioning systems for the project if the Authority deems it in the best interest of the Authority to fund such costs in whole or in part from amounts held in the Convention Center Fund rather than through a lease or lease-purchase agreement for such systems; (ii) to pay start-up costs, not exceeding \$2,000,000, of the project; (iii) to pay costs, not exceeding \$2,000,000, of a feasibility study and preliminary engineering program in accordance with section 38N of chapter 190 of the acts of 1982 for a parking garage for the project; (iv) to provide for, and maintain, any reserve for capital and current expenses of the project and other facilities of the Authority as the Authority shall deem necessary to appropriate, provided that the Authority receives written approval from the secretary of administration and finance; (v) to defray the net cost of operations, at an amount not to exceed \$17,000,000 in FY04 and that same amount in each fiscal year thereafter, of the Authority as defined in section 35 of said chapter 190; Notwithstanding any general or special law to the contrary, the Authority and the secretary of administration and finance shall deposit in the Pension Reserve Investment Trust, pursuant to this act, any of the revenues of the Boston common parking garage in excess of the costs of maintenance, repair and operation thereof, reasonable reserves for such purposes and cost of debt service on bonds issued to finance the restoration of the Boston common parking garage.

SECTION 440. Section 16 of chapter 159A of the General Laws, as so appearing, is hereby amended by adding the following paragraph:—

The court shall treat a violation of this section as a civil infraction. A person complained of for such civil infraction shall be adjudicated responsible upon such finding by the court and shall neither be sentenced to a term of incarceration nor be entitled to appointed counsel pursuant to chapter 211D. An adjudication of responsibility under this section may include an order of restitution. An adjudication of responsibility under this section shall not be used in the calculation of second and subsequent offenses under any chapter, nor as the basis for the revocation of parole or of a probation surrender.

SECTION 441. Chapter 161B is hereby amended by adding the following new section:—

Section 26. The regional transit authorities shall establish a stabilization fund into which the authorities shall deposit revenues in excess of expenditures. Said stabilization fund shall have a fund balance no greater than 15% of total revenues for all regional transit authorities for the fiscal year most recently ended. Monies from said fund shall be subject to appropriation and used for capital improvements and expenditures, to offset the unforeseen and dramatic loss of revenues within a fiscal year, and to pay current expenses after implementing all efficiencies and savings possible. The authorities may not assume draws from said stabilization fund in preparing their annual budgets. In the event that an authority requires a draw from said fund, it shall file with the secretary of administration and finance, secretary of transportation and construction, joint committee on transportation and the house and senate committees on ways and means a financial plan that projects to produce in the following fiscal year an excess of revenues over expenses, all measures taken to implement efficiencies and savings, the amount necessary to offset operating losses, and any other information that said secretaries or committees may require.

SECTION 442. Section 6 of chapter 161D of the General Laws is hereby repealed.

SECTION 443. Section 69H½ of chapter 164 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 17 and 18, the words “fisheries, wildlife and recreational vehicles” and inserting in place thereof the following words:— fish and game.

SECTION 444. The first paragraph of section 14 of chapter 175 of the General Laws, as most recently amended by section 2 of chapter 106 of the acts of 2002, is hereby further amended by adding the following clause:—  
For each insurance agent appointment or renewal thereof under section 162S;.

SECTION 445. Chapter 175 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after section 24D the following section:—

Section 24E. (a) Notwithstanding the provisions of any general or special law or rule or regulation to the contrary, prior to making any nonrecurring payment equal to or in excess of \$500 to a claimant under a contract of insurance, every company authorized to issue policies of insurance pursuant to this chapter shall exchange information with the division of medical assistance and the department of transitional assistance for use by said agencies for the purpose of the recovery of public assistance benefits. The company shall either

provide the division of medical assistance and the department of transitional assistance with information about the claimant or examine information made available by said agencies and updated not more than once a month. If the company elects to provide the division of medical assistance and the department of transitional assistance with information about a claimant, the company shall provide to said agencies, not less than ten business days prior to making payment to such claimant, the claimant's name, address, date of birth and social security number as appearing in the company's files and such other information appearing in the company's files as said agencies may require. The company shall use a method and format prescribed by the division of medical assistance and the department of transitional assistance but if the company is unable to use a method and format prescribed by said agencies, such company shall cooperate with said agencies to identify another method or format, including submission of written materials. If the company elects to examine information made available by the division of medical assistance and/or the department of transitional assistance concerning individuals who have received public assistance benefits and are subject to a lien to secure repayment, the company shall notify the division of medical assistance and/or the department of transitional assistance, not less than ten business days prior to making payment to a claimant who has received public assistance benefits and is subject to a lien to secure repayment, of the claimant's name, address, date of birth and social security number as appearing in the company's files and such other information appearing in the company's files as said agencies may require. A company shall not share information with the agencies if doing so would require the companies to violate the claimant's right to privacy under state or federal law.

For the purpose of this section, the word "claimant" shall mean an individual who brings a claim against an insured party under a liability insurance policy issued in the Commonwealth or under the liability coverage portion of a multiperil policy issued in the Commonwealth, a beneficiary under a life insurance contract issued in the Commonwealth, or a beneficiary living in the Commonwealth who is designated to receive payment under a life insurance contract issued by a company licensed in the Commonwealth. For the purposes of this section, the term "non-recurring payment" does not include fines paid by companies to claimants pursuant to subsection (e).

(b) An individual making, a claim governed by this section shall provide his current address, date of birth and social security number to the insurance company, upon the request of the company. Such company may inform the claimant that such request is being made in accordance with this section for the purpose of assisting the division of medical assistance and the department of transitional assistance in the recovery of public assistance benefits. Any such individual who refuses to provide the information required by this section shall not receive payment on the claim, and the company that declines payment on this basis shall be exempt from suit and immune from liability under this chapter or any other chapter or in any common law action in law or equity.

(c) Pursuant to regulations issued by the secretary of the executive office of health and human services in consultation with the commissioner of insurance, a company that knowingly fails to accurately exchange information regarding a claim to which this section applies shall be subject to a penalty assessed by the division of medical assistance and the department of transitional assistance. A company that fails or refuses to surrender property subject to a lien to the agency shall be liable in the same manner as provided in paragraph (7) of subsection (b) of section 6 of said chapter 119A. A company that makes a payment to the agency pursuant to this section and an insured individual on whose behalf the company makes a payment shall be immune from any obligation or liability to the claimant or other interested party arising from the payment, notwithstanding the provisions of this chapter or any other law.

(d) The division of medical assistance, the department of transitional assistance and the agency shall use their best efforts to make mutually satisfactory arrangements so companies have a single point of entry for accessing and transmitting information electronically pursuant to this section and section 24D. The division of medical assistance and the department of transitional assistance shall provide the agency with access to information regarding individuals receiving assistance under their programs for that purpose and so that a company can be informed if the claimant or the claimant's heirs or legal representative may owe monies to the division or the department.

(e) Information provided by the agency to a company under this section may only be used for the purpose of assisting the agency in collecting past due public assistance benefits. Any individual or company who uses such information for any other purpose shall be liable in a civil action to both the agency and the claimant in the amount of \$1,000 each, for each violation.

(f) In the event of a state of emergency declared by the governor or the president of the United States, the commissioner of insurance may temporarily suspend the application of this section to claims made due to the conditions resulting in such state of emergency.

SECTION 446. Chapter 185C of the General Laws is hereby amended by striking out section 19, as most recently amended by section 112 of chapter 184 of the acts of 2002, and inserting in place thereof the following section:-

Section 19. Proceedings shall be commenced in the housing court department as follows: a criminal case by complaint in like manner as in the district court department, a civil action in accordance with the Massachusetts Rules of Civil Procedure; provided, however, that a summary process action and a small claims action shall be commenced and administered in accordance with rules promulgated with the approval of the supreme judicial court. Clerks of the housing court department shall charge a fee of \$120 for the entry of an action, for the filing of a third-party complaint, and for the filing of a motion to intervene as plaintiff, which shall be paid by the party entering or filing the same; and no other fee shall be charged for taxing costs, for issuing any subpoena or execution or for issuing any order of notice or other mesne, interlocutory or final order, rule, decree of process authorized by law, except a temporary restraining order or preliminary injunction for the issuance of which the clerk shall charge \$90; provided, however, that no fee for the entry of an action or for the issuance of a temporary restraining order or preliminary injunction shall be charged to the commonwealth or political subdivision thereof.

Notwithstanding that a proceeding under this chapter is commenced by complaint, if it is found that the offense charged was not willful, intentional, reckless or repeated, the proceeding shall not be deemed criminal and no record of the case shall be entered in the probation records.

SECTION 447. Section 9 of chapter 197 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out subsection (d) and inserting in place thereof the following subsection:—

(d) If a deceased received medical assistance under chapter 118E when such deceased was 55 years of age or older or while an inpatient in a nursing facility or other medical institution, section 32 of chapter 118E shall govern the notice to be given to the division of medical assistance and such division's claim for recovery under section 31 of said chapter 118E if the division so chooses.



SECTION 448. The fifth paragraph of section 7 of chapter 209A of the General Laws is hereby amended by inserting after the first sentence, as amended by section 114 of chapter 184 of the acts of 2002, the following sentence:- In addition to, but not in lieu of, the forgoing penalties and any other sentence, fee or assessment, including the victim witness assessment in section 8 of chapter 258B, the court shall order persons convicted of a crime under this statute to pay a fine of \$25 that shall be transmitted to the treasurer for deposit into the General Fund.

SECTION 449. Section 2 of chapter 211B of the General Laws, is hereby amended by striking out the first sentence, as recently amended by section 38 of chapter 177 of the acts of 2001, and inserting in place thereof the following sentence:- There shall be 82 justices appointed to the superior court department, 10 justices appointed to the housing court department, 6 justices appointed to the land court department, 51 justices appointed to the probate and family court department, 30 justices appointed to the Boston municipal court department, 41 justices appointed to the juvenile court department and 158 justices and special justices appointed to the district court department.

SECTION 450. Section 9A of said chapter 211B, as appearing in the 2000 Official Edition, is hereby amended by striking out the second paragraph and inserting in the place thereof the following paragraph:-  
In the Roxbury and Dorchester divisions of the Boston municipal court department 1 court officer shall be designated by the first justice of each said court with the approval of the chief justice for administration and management as chief court officer and one as assistant chief court officer. In the district court of Chelsea, in the Brighton, West Roxbury, East Boston and South Boston divisions of Boston municipal court department one court officer shall be designated by the first justice of each said court as chief court officer, with the approval of the chief justice for administration and management. In the Boston juvenile court, 1 court officer shall be designated by the first justice of said court as chief court officer and two as assistant chief court officers with the approval of the chief justice for administration and management. In the central division of the Boston municipal court department, the chief justice of the Boston municipal court department, with the approval of the chief justice for administration and management, shall designate one court officer as chief court officer and two as assistant chief court officers of said court for criminal business and one court officer as chief court officer and one as assistant chief court officer of said court for civil business. In the district court of Brockton one court officer shall be designated by the justice of said court as chief court officer. Such court officers shall, while on duty, wear uniforms approved by the chief justice for administration and management, which shall be furnished at the expense of the commonwealth

SECTION 451. Chapter 211D of the General Laws is hereby amended by inserting after section 2 the following section:—  
Section 2½. Notwithstanding any other law to the contrary, a criminal defendant seeking appointment of counsel shall execute an affidavit stating under the pains and penalties of perjury that he meets the definition of indigency promulgated under section 2. A criminal defendant claiming indigency shall also execute a waiver authorizing the court's chief probation officer to obtain the defendant's wage and tax information from the department of revenue and any relevant information from the department of transitional assistance that the court may find useful in verifying the defendant's claim of indigency.

SECTION 452. Chapter 211B is hereby amended by inserting after section 6 the following section:-

Section 6A. There shall be an advisory board to assist the justices of the supreme judicial court and the chief justice for administration and management in their management of the judicial department. The board shall consist of the attorney general, or his designee, the executive director of the Massachusetts office of victim assistance and the following additional members appointed by the supreme judicial court: 2 persons who have significant experience in public administration, 2 persons who have significant experience in business administration, 1 lawyer with significant experience in the practice of criminal law, 1 lawyer with significant experience in the practice of civil law, 1 lawyer with significant experience in the practice of probate and family law, 1 lawyer with significant experience in the representation of juveniles in the courts, 1 lawyer with significant judicial experience but not a current justice of the commonwealth or a retired justice serving the commonwealth pursuant to judicial recall, and 1 person who has significant experience in information technology. The board shall choose its chair. The appointed members of said board shall serve for a term of 3 years. The maximum amount of time that said members may serve on said board shall be 2 such terms. The chief justice for administration and management shall be the executive secretary of the board.

The board shall advise the justices of the supreme judicial court and the chief justice for administration and management on all matters of judicial reform including, but not limited to, a proposal for the allocation of resources based on the demonstrated workload of each court.

SECTION 453. Chapter 218 of the General Laws is hereby amended by striking out section 1, as appearing in the 2000 Official Edition, and inserting in place thereof the following section:-

Section 1. The district court department, established under section one of chapter two hundred and eleven B, shall consist of divisions, one for each of the judicial districts hereinafter enumerated, and whenever the words "district court", "municipal court" or "court" are used in this chapter, unless the context refers exclusively to the Boston municipal court department or a juvenile court, or some other clearly contrary intent, such words shall refer to a division of the district court department. Unless the context refers only to a person appointed to the Boston municipal court department or to a juvenile court, the words "justice" and "special justice" shall mean, respectively, an associate justice and a special justice of the trial court appointed to a division of the district, court department; and the words "clerk" or "clerk of court" shall mean the clerk of such court; and the words "assistant clerk," "deputy assistant clerk," "temporary clerk" or "temporary assistant clerk" shall mean, respectively, an assistant clerk, deputy assistant clerk, temporary clerk or temporary assistant clerk of such court.

The several divisions of the Boston municipal court department and of the several divisions of the district court department shall continue to comprise the following cities, towns, wards and territory, in the following counties, respectively.

Barnstable

The first district court of Barnstable, held at Barnstable; Barnstable, Sandwich and Yarmouth. The second district court of Barnstable, held at Orleans; Provincetown, Truro, Wellfleet, Eastham, Orleans, Brewster, Chatham, Harwich and Dennis. The third district court of Barnstable, held at Falmouth; Mashpee, Falmouth and Bourne. Cases of delinquent children under sections fifty-two to eighty-four,

inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county.

#### Berkshire

The district court of northern Berkshire, held at Adams, North Adams and Williamstown; Adams, North Adams, Williamstown, Clarksburg, Florida, New Ashford, Cheshire, Savoy, Hancock, and Windsor; the district court of central Berkshire exercising concurrent jurisdiction in Windsor and Hancock.

The district court of central Berkshire, held at Pittsfield; Pittsfield, Hancock, Lanesborough, Peru, Hinsdale, Dalton, Washington, Richmond, Lenox, Becket and Windsor; the district court of southern Berkshire exercising concurrent jurisdiction in Lenox and Becket and the district court of northern Berkshire exercising concurrent jurisdiction in Windsor and Hancock.

The district court of southern Berkshire, held at Great Barrington and Lee; Sheffield, Great Barrington, Egremont, Alford, Mount Washington, Monterey, New Marlborough, Stockbridge, West Stockbridge, Sandisfield, Lee, Tyringham, Otis, Lenox, Becket; the district court of central Berkshire exercising concurrent jurisdiction in Freetown and Westport.

Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirtynine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county.

#### Bristol

The first district court of Bristol, held at Taunton; Taunton, Rehoboth, Berkley, Dighton, Seekonk, Easton and Raynham.

The second district court of Bristol, held at Fall River; Fall River, Somerset, Swansea, Freetown and Westport; the third district court of Bristol exercising concurrent jurisdiction in Freetown and Westport.

The third district court of Bristol, held at New Bedford; New Bedford, Fairhaven, Acushnet, Dartmouth, Freetown and Westport; the second district court of Bristol exercising concurrent jurisdiction in Freetown and Westport.

The fourth district court of Bristol, held at Attleboro; Attleboro, North Attleborough, Mansfield and Norton. Cases of delinquent children under sections fifty-two to eighty four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county.

#### Dukes County

The district court of Dukes County, held at Oak Bluffs, Edgartown and Tisbury; Dukes County.

Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of the above court of this county.

#### Essex

The first district court of Essex, held at Salem; Salem, Beverly, Danvers, Middleton and Manchester-by-the-Sea.

The second district of Essex, held at Ipswich; Ipswich, Hamilton, Topsfield and Wenham.

The central district court of northern Essex, held at Haverhill; Haverhill, Groveland, Georgetown, Boxford, and West Newbury; the district court of Newburyport exercising concurrent jurisdiction in West Newbury.

The district court of eastern Essex, held at Gloucester; Gloucester, Rockport, and Essex.

The district court of southern Essex, held at Lynn; Lynn, Swampscott, Saugus, Marblehead and Nahant.

The district court of Lawrence, held at Lawrence and Methuen; Lawrence, Andover, North Andover and Methuen.

The district court of Newburyport, held at Newburyport; Amesbury, Merrimac, Newbury, Newburyport, Rowley, Salisbury and West Newbury; the central district court of northern Essex exercising concurrent jurisdiction in West Newbury.

The district court of Peabody, held at Peabody; Peabody, and Lynnfield.

Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county.

#### Franklin

The district court of Franklin, held at Greenfield, Franklin county, except Orange, Erving; Warwick, Wendell; Leverett, Shutesbury, and New Salem. Sessions may also be held at Shelburne Falls in Shelburne and Buckland at such times and places as the justice of said court may determine.

The district court of eastern Franklin, held at Orange; Athol, Orange, Erving, Warwick, Wendell, Leverett, Shutesbury, and New Salem. Said court shall be held in Athol at least one day each week of the year. Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county.

#### Hampden

The district court of eastern Hampden held at Palmer; Palmer, Brimfield, Hampden, Monson, Holland, Wales, Wilbraham, Ludlow and East Longmeadow.

The district court of western Hampden, held at Westfield and Chester; Westfield, Chester, Granville, Southwick, Russell, Blandford, Tolland, Montgomery and Agawam.

The district court of Chicopee, held at Chicopee; Chicopee. The district court of Holyoke, held at Holyoke; Holyoke.

The district court of Springfield held at Springfield; Springfield, West Springfield and Longmeadow.

Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county.

#### Hampshire

The district court of Hampshire, held at Northampton, Cummington, Huntington, and Easthampton; Hampshire county, except Amherst, Belchertown, Granby, Hadley, South Hadley, Pelham, Ware, and any violation of law committed on the land of the metropolitan district commission comprising the Quabbin reservation or used for the supply or protection of the Quabbin reservoir.

The district court of eastern Hampshire, held at Belchertown, Amherst, Granby, Hadley, South Hadley, Pelham, Ware, and any violation of law committed on the land of the metropolitan district commission comprising the Quabbin reservation or used for the supply or protection of the Quabbin reservoir.

Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county.

#### Middlesex

The district court of central Middlesex held at Concord; Concord, Acton, Bedford, Carlisle, Lincoln, Maynard, Stow, and Lexington. The first district court of northern Middlesex, held at Ayer; Ayer, Dunstable, Groton, Pepperell, Townsend, Ashby, Shirley, Westford, Littleton and Boxborough, and the Devens Regional Enterprise Zone.

The first district court of eastern Middlesex, held at Malden; Malden, Wakefield, Melrose and Everett.

The second district court of eastern Middlesex, held at Waltham; Waltham, Watertown and Weston.

The third district court of eastern Middlesex, held at Cambridge; Cambridge, Arlington and Belmont.

The fourth district court of eastern Middlesex, held at Woburn; Woburn, Winchester, Burlington, Wilmington, Stoneham, Reading and North Reading.

The first district court of southern Middlesex, held at Framingham; Framingham, Ashland, Holliston, and Hopkinton.

The district court of Lowell, held at Lowell; Lowell, Billerica, Tewksbury, Dracut, Chelmsford and Tyngsborough.

The district court of Marlborough, held at Marlborough; Marlborough and Hudson. The district court of Natick, held at Natick;

Natick, Sherborn, Wayland, and Sudbury. The district court of Newton, held at Newton; Newton.

The district court of Somerville, held at Somerville; Somerville and Medford.

Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county.

#### Nantucket

The district court of Nantucket, held at Nantucket; Nantucket county.

Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of the above court of this county.

#### Norfolk

The district court of northern Norfolk, held at Dedham; Dedham, Dover, Norwood, Westwood, Medfield, Wellesley and Needham.

The district court of East Norfolk, held at Quincy; Quincy, Braintree, Cohasset, Weymouth, Holbrook, Randolph and Milton; and, in criminal cases, concurrently with the second district court of Plymouth, that part of Scituate described in chapter three hundred and ninety-four of the acts of nineteen hundred and twelve. Arrests and service of process in such cases may be made by an officer qualified to serve criminal process in Cohasset. This provision shall not increase the judicial district of said court of the purposes of section seventy-eight.

The district court of southern Norfolk, held at Stoughton; Stoughton, Avon, Canton and Sharon.

The district court of Western Norfolk, held at Wrentham; Franklin, Walpole, Foxborough, Medway, Millis, Norfolk, Wrentham and Plainville.

The municipal court of Brookline, held at Brookline; Brookline.

Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county.

#### Plymouth

The second district court of Plymouth, held at Hingham; Hingham, Rockland, Hull, Hanover, Scituate and Norwell.

The third district court of Plymouth, held at Plymouth; Plymouth, Kingston, Plympton, Pembroke, Duxbury, Halifax, Hanson and Marshfield.

The fourth district court of Plymouth, held at Wareham; Middleborough, Wareham, Lakeville, Marion, Mattapoisett, Rochester and Carver.

The district court of Brockton, held at Brockton; Brockton, Bridgewater, East Bridgewater, Whitman, Abington and West Bridgewater. Said court may adjourn to the Massachusetts correction institution at Bridgewater, whenever the public convenience seems to the first justice to render such adjournment expedient.

Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county.

#### Suffolk

The central division of the Boston municipal court department, held at Boston; wards six, seven, eight, nine, ten, eleven, twelve, sixteen, seventeen and eighteen of Boston as they existed on February first, eighteen hundred and eighty-two; and in criminal cases, concurrently with the Roxbury and Brighton divisions of the Boston municipal court department, the second and third district courts of eastern Middlesex, and the district court of Newton, respectively, so much of the Charles river basin, as defined in section two of chapter five hundred and twenty-four of the acts of nineteen hundred and nine, as affected by chapter two hundred and forty-five of the General Acts of nineteen hundred and sixteen as is within the districts of said courts.

The Brighton division of the Boston municipal court department, held at Brighton in Boston; ward twenty-five of Boston as it existed on February first, eighteen hundred and eighty-two.

The Charlestown division of the Boston municipal court held at Charlestown in Boston: wards three, four and five of Boston as they existed on February first, eighteen hundred and eighty-two; provided that in criminal matters said court shall have exclusive jurisdiction in that part of said wards which is under the care, custody and control of the lower basin division of the metropolitan district commission and in so much of the Charles river basin, as defined in section two of chapter five hundred and twenty-four of the acts of nineteen hundred and nine as affected by chapter two hundred and forty-five of the General Acts of nineteen hundred and sixteen as is within the district of said court.

The district court of Chelsea, held at Chelsea; Chelsea, and Revere.

The Dorchester division of the Boston municipal court department, held at Dorchester in Boston; ward twenty-four of Boston as it existed on February first, eighteen hundred and eighty-two, and the territory comprised within the limits of precinct twelve of ward thirteen of Boston as it existed on November second, nineteen hundred and forty-eight.

The East Boston division of the Boston municipal court department, held at East Boston in Boston; Winthrop and wards one and two of Boston as they existed on March first, eighteen hundred and eighty-six; provided that said court shall have territorial jurisdiction in matters that arise in the Sumner tunnel, so-called, and Lieutenant William F. Callahan, Jr. tunnel, including any property, toll plazas and approach roads thereto under the ownership, care, custody and control to the Massachusetts Turnpike Authority as provided by chapter five hundred and ninety-eight of the acts of nineteen hundred and fifty-eight.

The Roxbury division of the Boston municipal court, held at Roxbury in Boston; wards nineteen, twenty, twenty-one and twenty-two of Boston as they existed on February first, eighteen hundred and eighty-two, excepting ward ten, save as hereinafter provided, as it existed on February first, nineteen hundred and seventy-six; provided, however, that, notwithstanding any other provision of law, said court shall have jurisdiction over matters arising in precincts one, six and seven of ward ten.

The South Boston division of the Boston municipal court held at South Boston in Boston; wards thirteen, fourteen and fifteen of Boston as they existed on February first, eighteen hundred and eighty-two.

The West Roxbury division of the Boston municipal court, held at West Roxbury in Boston; ward twenty-three of Boston as it existed on February first, eighteen hundred and eighty-two, the territory comprised within the limits of the former town of Hyde Park which was annexed to Boston by chapters four hundred and sixty-nine and five hundred and eighty-three of the acts of nineteen hundred and eleven, and ward ten, except precincts one, six and seven of said ward ten, as existing on February first, nineteen hundred and seventy-six.

Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county. The juvenile court located in the city of Boston, heretofore known as the Boston juvenile court, shall have territorial jurisdiction provided in section fifty-seven, and with respect to children in Suffolk county, shall have exclusive jurisdiction of petitions brought under said sections twenty-four and thirty-nine E of said chapter one hundred and nineteen.

Worcester

The central district court of Worcester, held at Worcester; Worcester and Auburn.

The first district court of northern Worcester, held at Gardner; Gardner, Petersham, Hubbardston and Westminster.

The first district court of eastern Worcester, held at Westborough and Grafton; Westborough, Grafton, Southborough, Northborough and Shrewsbury.

The second district court of eastern Worcester, held at Clinton; Clinton, Berlin, Bolton, Boylston, Harvard, Lancaster, Sterling, and West Boylston.

The first district court of southern Worcester, held at Southbridge and Webster; Southbridge, Webster, Sturbridge, Charlton, Dudley and Oxford.

The second district court of southern Worcester, held at Uxbridge; Uxbridge, Blackstone, Douglas, Northbridge, Millville, Sutton and Millbury.

The third district court of Southern Worcester, held at Milford; Milford, Mendon, Upton, Bellingham and Hopedale.

The district court of western Worcester, held at North Brookfield; East Brookfield, Brookfield, Spencer, North Brookfield, West Brookfield, Warren, Hardwick, Leicester, New Braintree, Barre, Oakham, Paxton and Rutland. Said court may adjourn to any town within its district other than North Brookfield whenever the public convenience seems to the presiding justice to render such adjournment expedient.

The district court of Fitchburg, held at Fitchburg; Fitchburg and Lunenburg.

The district court of Leominster, held at Leominster; Leominster, Holden and Princeton.

The district court at Winchendon, held at Winchendon; Winchendon, Ashburnham, Phillipston, Royalston and Templeton.

Cases of delinquent children under sections fifty-two to eighty-four, inclusive, of chapter one hundred and nineteen, and petitions brought under sections twenty-four and thirty-nine E of said chapter one hundred and nineteen, are excepted from the jurisdiction of all of the above courts of this county.

Each division of the district court department may be referred to by the name of the principal place for the holding of said court.

SECTION 454. Section 3 of said chapter 218, as so appearing, is hereby amended by striking out, in lines 1 to 3, inclusive, the words "municipal court of the city of Boston, the municipal court of the Charlestown district and the municipal court of the South Boston district, and the East Boston district court" and inserting in the place thereof the following words:- central, Charlestown, South Boston, and East Boston divisions of the Boston municipal court department.

SECTION 455. Section 6 of said chapter 218 of the General Laws, as so appearing, is hereby amended by striking out, in lines 6 and 7, the words ", the municipal court of the Dorchester district".

SECTION 456. Said section 6 of said chapter 218 of the General Laws, as so appearing, is further amended by striking out, in lines 9 and 10, the words "the municipal court of the Roxbury district",.

SECTION 457. Said section 6 of said chapter 218 of the General Laws, as so appearing, is further amended by striking out the figure "177", inserted by section 44 of chapter 177 of the acts of 2001, and inserting in the place thereof the following figure:- 158.

SECTION 458. Section 8 of said chapter 218, as appearing in the 2000 Official Edition, is hereby amended by striking out in the first sentence and inserting in the place thereof the following sentence:- Each district court and each division of the Boston municipal court department shall have a clerk, except that the central division of the Boston municipal court department shall have two clerks as provided in section 53.

SECTION 459. Section 9 of said chapter 218, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

In the case of the absence, death or removal of a clerk of a court of the Boston municipal court department, the chief justice of the Boston municipal department may appoint a temporary clerk, to act until the clerk resumes his duties or until the vacancy is filled.

SECTION 460. The fourth paragraph of section 10 of said chapter 218, as so appearing, is hereby amended by striking out the lines reading "municipal court of the Brighton district;" "East Boston district court;" "municipal court of South Boston district;" and "the municipal court of the Charlestown district;".

SECTION 461. The eighth paragraph of said section 10 of said chapter 218, as so appearing, is hereby amended by striking out the line reading "municipal court of the Dorchester District;".

SECTION 462. Said eighth paragraph of said section 10 of said chapter 218, as so appearing, is hereby further amended by striking out the line reading "district court of West Roxbury district;".

SECTION 463. Said section 10 of said chapter 218, as so appearing, is hereby further amended by striking out the eleventh and twelfth paragraphs.

SECTION 464. The Fifteenth paragraph of said section 10 of said chapter 218 of the General Laws, as so appearing, is hereby further amended by striking out the line reading "municipal court of the Dorchester district;".

SECTION 465. Said fifteenth paragraph of said section 10 of said chapter 218, as so appearing, is hereby further amended by striking out the line reading "district court of Brighton;".

SECTION 466. Section 10A of said chapter 218, as so appearing, is hereby amended by striking, in lines 1 and 2, the words "municipal court of the city of Boston" and inserting in the place thereof the following words:- central division of the Boston municipal court department.

SECTION 467. Section 11 of said chapter 218, as so appearing, is hereby amended by inserting after the word "department", in line 2, the following words:- and the Boston municipal court department.

SECTION 468. Section 22 of chapter 218 of the General Laws, as so appearing, is hereby amended by striking out, in lines 2 and 3, the words "ten dollars for claims of five hundred dollars or less and fifteen dollars for claims of greater than five hundred dollars," and inserting in place thereof the following words:— "\$20 for claims of \$500 or less and \$30 for claims of greater than \$500".

SECTION 469. Section 26 of said chapter 218, as so appearing, is hereby amended by striking out, in lines 1 and 2, the following words "the municipal court of the city of Boston" and inserting in the place thereof the following words:- divisions of the Boston municipal court department.

SECTION 470. Section 38 of said chapter 218, as so appearing, is hereby amended by inserting after the word "courts", in line 1, the following words:- and Boston municipal court divisions.

SECTION 471. Said section 38 of said chapter 218 of the General Laws, as so appearing, is hereby further amended by inserting after the word "courts", in line 10, the following words:- and Boston municipal court divisions.

SECTION 472. Section 39 of said chapter 218, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "municipal court of the city of Boston" and inserting in the place thereof the following words:- central division of the Boston municipal court department.

SECTION 473. Section 40 of said chapter 218, as so appearing, is hereby amended by striking out, in line 3, the words "municipal court of the city of Boston" and inserting in place thereof the following words:- Boston municipal court department.

SECTION 474. Said section 40 of said section 218, as so appearing, is hereby further amended by striking out, in line 10, the words "municipal court of the city of Boston" and inserting in the place thereof the following words:- central division of the Boston municipal court department.

SECTION 475. Section 47 of said chapter 218, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "the municipal court of the city of Boston" and inserting in the place thereof the following words:- Boston municipal court department.

SECTION 476. Section 48 of said chapter 218, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "or the East Boston district court".

SECTION 477. Section 49 of said chapter 218, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "the municipal court of the city of Boston, and in the East Boston district court" and inserting in the place thereof the following words:- central division of the Boston municipal court department, and in the East Boston division of the Boston municipal court department.

SECTION 478. Section 50 of said chapter 218, as so appearing, is hereby amended by striking out, in line 2, the word "eleven" and inserting in the place thereof the following:- 30.

SECTION 479. Section 51A of said chapter 218, as so appearing, is hereby amended by inserting after the first paragraph the following paragraph:-

The chief justice of the Boston municipal court department shall have the power to appoint the first justice of each of the various divisions within the Boston municipal court department, subject to the approval of the chief justice for administration and management, and to define his duties; provided, however, that appropriate consideration shall be given to seniority, length of service at that particular division, and managerial ability. Each first justice so appointed shall serve as the first justice of that court for a five-

year term and shall be eligible to be reappointed for additional five-year terms at that particular court. Any first justice may be removed from his position as first justice, when it is determined by the chief justice of the district court department to be in the best interests of the administration of justice. Any first justice who is removed from his position as first justice by the chief justice of the district court department may appeal such removal to the chief justice for administration and management.

SECTION 480. Section 53 of said chapter 218, as so appearing, is hereby amended by inserting after the word "the", in line 1, the following words:- central division of the.

SECTION 481. Said section 53 of said chapter 218, as so appearing, is hereby further amended by adding the following five paragraphs:-

Four assistant clerks with salaries payable by the commonwealth may be appointed in: Brighton division of the Boston municipal court department; East Boston division of the Boston municipal court department; South Boston division of the Boston municipal court department; Charlestown division of the Boston municipal court department.

Eight assistant clerks with salaries payable by the commonwealth may be appointed in: Dorchester division of the Boston municipal court department; West Roxbury division of the Boston municipal court department.

Twelve assistant clerks with salaries payable by the commonwealth may be appointed in: Roxbury division of the Boston municipal court department.

One of the 12 assistant clerks for the Roxbury division of the Boston municipal court department shall be appointed for juvenile sessions.

In the following courts, one of the assistant clerks shall be designated in charge of six-person jury sessions and shall be paid by the commonwealth in accordance with the job classification and pay plan established, subject to appropriation, by the chief justice of administration and management: Dorchester division of the Boston municipal court department.

SECTION 482. Said chapter 218 is hereby amended by striking out section 53A, as so appearing, and inserting in the place thereof the following section:-

Section 53A. In case of the absence, death or removal of a salaried assistant clerk of any of the 8 divisions of the Boston municipal court department, the clerk of said court, may, subject to the approval of the chief justice, appoint a temporary assistant clerk, to act until such assistant clerk resumes his duties or until the vacancy is filled.

SECTION 483. Section 54 of said chapter 218, as so appearing, is hereby amended by striking out, in line 2, the words "said court" and inserting in the place thereof the following words:- the central division of the Boston municipal court department.

SECTION 484. Section 54 of Chapter 218 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the words "Suffolk County" in line 5 and in line 8 the following:- , excluding Chelsea and Revere,.

SECTION 485. Section 57 of said chapter 218, as so appearing, is hereby amended by striking out the paragraphs under the caption "Suffolk County" and inserting in the place thereof the following 3 paragraphs:-  
held at the Dorchester division of the Boston municipal court department, within the same territorial limits as are prescribed for the criminal jurisdiction of the Dorchester division of the Boston municipal court, as the chief justice of the juvenile court department may determine.

held at the West Roxbury division of the Boston municipal court, within the same territorial limits as are prescribed for the criminal jurisdiction of the West Roxbury division of the Boston municipal court department, as the chief justice of the juvenile court department may determine.

held at Boston, within the same territorial limits as are prescribed for the criminal jurisdiction of the central division of the Boston municipal court department, the Roxbury division of the Boston municipal court department, as the chief justice of the juvenile court department may determine, the Brighton division of the Boston municipal court department, the Charlestown division of the Boston municipal court department, the East Boston division of the Boston municipal court department, the Chelsea division of the district court department; and the South Boston division of the Boston municipal court department, as the chief justice of the juvenile court department may determine.

SECTION 486. Section 66 of said chapter 218, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "municipal court of the city of Boston" and inserting in the place thereof the following words:- Boston municipal court department.

SECTION 487. Section 68 of said chapter 218, as so appearing, is hereby amended by striking out, in line 1, the words "district court" and inserting in the place thereof the following words:- division of the Boston municipal court department.

SECTION 488. Section 70 of said chapter 218, as so appearing, is hereby amended by striking out, in lines 1 and 2, the words "for civil business and for criminal business".

SECTION 489. Said chapter 218 is hereby further amended by striking out section 75B, as so appearing, and inserting in the place thereof the following section:-

Section 75B. The salaries of the first assistant clerks of the central division of the Boston municipal court department and the first assistant clerk designated in charge of twelve man jury sessions of said court for criminal business shall be equal to eighty-three and one-half percent of the salary of the clerks of said court as provided for in section 53.

SECTION 490. Said chapter 218 is hereby further amended by striking out section 80A, as so appearing, and inserting in place thereof the following section:-

Section 80A. The secretary and assistant secretary to the justices of the Boston municipal court department shall receive from the commonwealth in full for all services performed by them such salaries as shall be fixed by the justices of said department.

SECTION 491. Section 37 of said chapter 221, as most recently amended by section 122 of chapter 184 of the acts of 2002, is hereby amended by striking out the fourth sentence and inserting in place thereof the following two sentences:- A petitioner to be examined for admission shall pay to the clerk of the court in which his petition is filed a fee of \$800 upon the entry of his petition and a further fee of \$800 upon the entry of any subsequent petition. A member of the bar of any other state who applies to be admitted without examination shall pay to the clerk of the court in which his petition is filed a fee of \$1,000. Any person who requests to have their bar examination scores transferred to another jurisdiction shall pay a fee of \$25 for each transfer. If the board determines to allow petitioners for examination to use approved computers in connection with any portion of the examination, petitioners who use such computers shall pay a fee of \$75 for such use; provided, that such a fee shall not be assessed against any petitioner who is granted permission to use such a computer by reason of any physical or mental impairment or other disability that substantially and mentally limits the individual's ability to complete the bar examination.

SECTION 492. Section 62B of said chapter 221, as so appearing, is hereby amended by striking out, in line 5, the words "municipal court of the city of Boston" and inserting in the place thereof the following words:- Boston municipal court department.

SECTION 493. Section 8 of chapter 233 of the General Laws, as so appearing, is hereby amended by striking out, in lines 10 and 11, the words "metropolitan district commission".

SECTION 494. Section 4A of chapter 252 of the General Laws, as so appearing, is hereby amended by striking out, in lines 2 to 4, the words, " , or through the metropolitan district commission in respect to the metropolitan parks or water district or either metropolitan sewerage district".

SECTION 495. Section 4 of chapter 260 of the General Laws, as so appearing, is hereby amended by striking out, in line 13, the words "of the metropolitan district commission,".

SECTION 496. Chapter 262 of the General Laws is hereby amended by striking out section 2, as most recently amended by section 131 of chapter 184 of the acts of 2002, and inserting in place thereof the following section:—

The fees of the clerks of the district and Boston municipal court departments of the trial court in civil actions, shall be as follows: for the entry of a complaint, third-party complaint, petition or other action, and for the filing of a motion to intervene as plaintiff, \$180;

for the entry of supplementary proceedings under chapter 224, \$30, which, together with the fees of witnesses and officers in such proceedings, shall be allowed the creditor as costs;

for the entry of a claim of trial by the superior court under section 104 of chapter 231, \$180;

for approving or disapproving by the court of sureties on bonds or recognizances, except bonds given for removal of actions to the superior court, \$60; and

for the entry of a civil appeal in the appellate division of the district court department, \$180.

Notwithstanding the foregoing, no fee shall be paid for the entry of a complaint, petition, appeal or other action or removal from the district court by the commonwealth, but if the commonwealth prevails in the action, the fee shall be taxed against the other party.

SECTION 497. Said chapter 262 is hereby further amended by inserting after section 2 the following section:-

Section 2A. The clerks of the district and Boston municipal court departments shall assess a \$90 fee on each civil suit or petition that is without final disposition one year following the commencement of said suit or petition and in each year thereafter that such suit or petition remains without such final disposition. Said fee shall be assessed on the anniversary date of said suit or petition's original filing and shall be paid to the court no later than 45 days following said anniversary. Failure to pay said fee in such a timely fashion shall subject said suit or petition to the assessment of an additional late fee of \$10 that shall be assessed each month until said \$120 is paid to the court. Said clerks shall post a notice of the requirement to pay such a fee in a place of high visibility within their respective courts. Failure to pay the fees established by this section within the time period established by this section shall also subject the suit or petition to an order of dismissal nisi entered by the appropriate justice of the district court or Boston municipal court department following the provision of 30 days notice of such impending dismissal to the parties who initiated such suit or petition.

SECTION 498. Said chapter 262 is hereby further amended by striking out section 4, as most recently amended by section 134 of said chapter 184, and inserting in place thereof the following section:—

Section 4. The fees of the clerks of the supreme judicial court for the commonwealth and for each of the counties and for the appeals court shall be as follows:

for the entry of a complaint, petition, appeal or other action, \$300;

for the filing of an application for further appellate review, \$270; and

for the issuance of an injunction or restraining order, \$90.

Notwithstanding the foregoing, no fee shall be paid for the entry of an appeal, petition, complaint or other action and for the filing of an application for further appellate review by the commonwealth and no fee shall be charged to the commonwealth for the issuance of an injunction or restraining order, but if the commonwealth prevails in the action, the fees shall be taxed against the other party.

SECTION 499. Said chapter 262 is hereby further amended by striking out section 4A, as most recently amended by section 137 of chapter 184 of the acts of 2002, and inserting in place thereof the following section:—

Section 4A. The fees of clerks of court of the superior court department of the trial court shall be as follows:

for the entry in the superior court department of the trial court of a complaint, third-party complaint, petition or other action and for the filing of a motion to intervene as plaintiff, \$240;

for the filing of a petition to the county commissioners, \$30, except that no fee shall be required from a municipality filing a petition to the county commissioners for the county in which it is located; and

for the issuance of an injunction or restraining order, \$90.

The clerk shall collect, for every civil case, a \$20 security fee.

Notwithstanding the foregoing, no fee shall be paid for the entry of a complaint, petition or other action by the commonwealth and no fee shall be charged to the commonwealth for the issuance of an injunction or restraining order, but if the commonwealth prevails in the action, the fees shall be taxed against the other party.

SECTION 500. Section 4C of said chapter 262, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 4 and 5, the words “ten dollars” and inserting in place thereof the following figure:— \$15.

SECTION 501. Said section 4C of said chapter 262, as so appearing, is hereby further amended by striking out, in line 6, the words “four dollars” and inserting in place thereof the following figure:— \$10.

SECTION 502. Said chapter 262 is hereby further amended by inserting after section 4C the following section:-

Section 4D. The clerks of court of the superior court department of the trial court shall assess a \$120 fee on each civil suit or petition that is without final disposition one year following the commencement of said suit or petition and in each year thereafter that such suit or petition remains without such final disposition. Said fee shall be assessed on the anniversary date of said suit or petition's original filing and shall be paid to the court no later than 45 days following said anniversary. Failure to pay said fee in such a timely fashion shall subject said suit or petition to the assessment of an additional late fee of \$10 that shall be assessed each month until said \$120 is paid to the court. Said clerks shall post a notice of the requirement to pay such a fee in a place of high visibility within their respective courts.

Failure to pay fees established by this section within the time period established by this section shall also subject the suit or petition to an order of dismissal nisi entered by the appropriate justice of the superior court department following the provision of 30 days notice of such impending dismissal to the parties who initiated such suit or petition.

SECTION 503. Said chapter 262 is hereby further amended by striking out section 8, as so appearing, and inserting in place thereof the following section:—

Section 8. The fees of sheriffs, deputy sheriffs and constables shall be as follows:

(a) for the service of civil process:

(1) for service of an original summons, trustee process, subpoena or scire facias, either by reading it or by leaving a copy thereof, \$20 for each defendant upon whom service is made, except as otherwise provided herein;

(2) for service of an original summons and complaint for divorce or for any other service required to be served in hand, \$30 for each defendant upon whom service is made;

(3) for attestation of each copy of a writ, precept or process, except as otherwise provided herein, \$5.

(4) if the officer by the direction of the plaintiff or his attorney makes a special service of a writ or precept, either by attaching personal property or arresting the body, he shall be entitled to \$2 for each defendant upon whom the writ is so served, and \$8 additional for custody of the body arrested, and at the same rate for each day during which he has such custody; provided, however, that if the officer employs an assistant in the arrest of the body, he shall be entitled to \$5 a day for such assistant;

(5) for the custody of personal property attached, replevied or taken on execution, not more than \$50 for each day of not more than 8 hours for the keeper while he is in charge, and not more than \$20 a day for the officer for a period not longer than 10 days; but the officer may be allowed a greater compensation for himself or his keeper, or compensation for a longer period, by the consent of the plaintiff, or by order of the court upon a hearing; provided, however, that the officer shall also be entitled to expenses for packing, labor, teaming, storage and taking and preparing a schedule of property attached, replevied or taken on execution, if he certifies that such expenses were necessary and reasonable;

(6) for an attachment on mesne process of land or of any leasehold estate, \$20 for each defendant against whom an attachment is made, 32 cents a mile each way for travel from the place of service to the registry and his fee for the copy deposited in the registry of deeds or land court, together with the recording fees actually paid;

(7) for a special attachment of real estate, \$10 additional for each person against whom an attachment is made;

(8) for the service of a writ of replevin: for seizure of property, \$10 for each defendant; securing and swearing appraisers, \$4, and the actual amount paid to appraisers, as hereinafter provided; examining and approving sureties, \$5; delivery of property replevied, \$5; for each service, \$5 for each copy, at the rate hereinbefore provided for copies of writs, precepts or other processes;

(9) for a levy on real estate:

(i) for preparing and serving notice of sale, a fee not to exceed \$50, plus travel;

(ii) For posting notices of sale, \$20, plus travel;

(iii) the necessary expenses of advertising;

(iv) for the sale of land or of any leasehold estate, \$20;

(v) for preparing, executing and acknowledging deed, \$25; and

(vi) for travel, 32 cents a mile each way from the place where he receives the execution to the office of the register of deeds, and his fee for the copy;

(10) for a sale of personal property on mesne process or on execution the following:

(i) for service of a copy of notice to appoint appraisers, \$8 for each person upon whom service is made;

(ii) the necessary expenses of taking and preparing a schedule of property proposed to be sold;

(iii) for attendance upon and swearing appraisers, \$10;

(iv) the amount actually paid to appraisers as hereinafter provided;

(v) for preparing and posting notice of a proposed sale, \$10, plus travel;

(vi) the necessary expenses of keeper, labor and advertising;

(vii) For custody of property, \$10 a day;

(viii) for services as auctioneer, or for services of an auctioneer in selling property, a fair and reasonable amount;

(ix) if the sale is made on execution, poundage may be charged as hereinafter provided;

(x) the fair compensation for the services of an appraiser shall not be more than \$30 for each day's service, but the officer may be allowed a greater compensation for the appraisers by an order of the court;

(xi) for each adjournment of sale of real or personal property, \$10;



- (11) for taking bail and furnishing and writing the bail bond, \$2, which shall be paid by the defendant and taxed in his bill of costs if he prevails;
- (12) for serving an execution in a personal action by copy and demand on debtor or on trustee, \$10 and travel, if the execution is not collected in whole or in part; for serving an execution in a personal action, and collecting damages or costs on an execution, warrant of distress or other like process, for an amount not exceeding \$100, 10 cents for every \$1; all above \$100 and not exceeding \$500, 5 cents for every \$1; and all above \$500, 2 cents for every \$1; but such percentage shall be allowed only upon the amount actually collected. A levy of the execution upon his body shall be considered, so far as the fees of the officer are material, a full satisfaction of the execution if the debtor has recognized with surety or sureties as required by law;
- (13) for serving a writ of seisin or possession in a real action, \$15 for each parcel;
- (14) for serving an execution upon a judgment for partition or for assignment of dower or curtesy, \$2 per day;
- (15) for serving a writ of capias, a writ of habeas corpus, a writ of ne exeat or other process of civil arrest in a civil proceeding, \$50, plus, upon consent of the plaintiff or upon order of the court, a greater compensation which may include the services of an assistant if necessary, plus travel;
- (16) for serving a venire or notice to jurors for attendance upon any court, civil or criminal, \$10 for each person upon whom service is made;
- (17) for summoning witnesses, \$20 for each person upon whom service is made and \$2 for each copy served, together with the fee paid to the witness;
- (18) for dispersing treasurer's process warrants and proclamations of all kinds, \$4 each;
- (19) for travel in the service of original writs, executions, warrants, summonses, subpoenas, notices and other processes, 32 cents a mile each way, to be computed from the place of service to the court or place of return; and if the same precept, or process is served upon more than 1 person, the travel shall be computed from the most remote place of service, with such further travel as was necessary in serving it; if the distance from the place of service to the place of return exceeds 20 but does not exceed 50 miles, 32 cents a mile 1 way only shall be allowed for all travel exceeding 20 miles and, if it exceeds 50 miles, only 6 cents a mile 1 way shall be allowed for all travel exceeding that distance;
- (20) for travel in the service of venires and notices to jurors, 32 cents a mile for the distance actually traveled;
- (21) for posting warrants, for notifying town meetings or for other purposes, \$5 for each copy posted together with 32 cents a mile for the distance actually traveled;
- (b) for the service of criminal process:
- (1) for serving a warrant of capias in a criminal proceeding, \$50, plus, upon consent of the plaintiff or upon order of the court, a greater compensation which may include the services of an assistant if necessary, plus travel, and of a summons upon the defendant, \$20, for each person upon whom the same is served;
- (2) for a copy of a mittimus, warrant or other precept required by law in criminal cases, \$5;
- (3) for service of a witness, summons or subpoena in criminal cases, \$20 plus travel in the amount of 32 cents a mile each way for a distance of not more than 20 miles, and for any excess over 20 miles, 7 cents a mile each way, and no more. The distance shall be computed from the most remote place of service to the place of return, but upon a subpoena the court shall reduce the fee for travel to a reasonable amount for the service performed if the travel charged has not been actually performed by the officer who made the service; and
- (4) for service of an order of notice under chapter 273A, \$20.

SECTION 504. Section 34 of Chapter 262 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking, in line 78, the words "four dollars" and inserting in place the following:- "fifty dollars, of which forty-six dollars shall be deposited in the General Fund."

SECTION 505. Section 39 of said chapter 262, as most recently amended by chapter 184 of the acts of 2002, is hereby further amended by striking out the second paragraph and inserting in place thereof the following paragraph:—  
For the entry of every original petition, complaint or writ and transmitting it to the recorder, when filed with an assistant recorder, \$240. For the entry of complaint to foreclose tax lien \$200. An additional fee of \$90 shall be paid for the issuance of an injunction or restraining order.

SECTION 506. Said section 39 of said chapter 262, as so amended, is hereby further amended by striking out, in line 48, the words "forty dollars" and inserting in place thereof the following figure:— \$50.

SECTION 507. Said chapter 262 is hereby further amended by striking out section 40, as most recently amended by section 151 of chapter 124 of the acts of 2002, and inserting in place thereof the following section:—

Section 40. The fees of registers of the probate and family court department of the trial court, shall be as follows:

for the entry of a complaint for divorce or for affirming or annulling marriage, except as provided hereinafter for an action in equity, \$200;

for the entry of an action for separate support, \$100;

for the entry of a petition for the probate of a will, for administration of the estate of a person deceased intestate, for administration of goods not already administered, with the will annexed or otherwise, of a petition under section 35 or 36 of chapter 209 by a husband or wife for authority to convey land as if sole, of a petition for partition, for change of name, for leave to carry on the business of the deceased and for the appointment of a special administrator, conservator, trustee, receiver of the estate of an absentee or a guardian, except when the petitioner certifies that the ward's estate does not exceed \$100, \$150;

for filing a representation of insolvency, \$150;

for the entry of a petition: for leave to lease real estate; for specific performance; for leave to mortgage real estate; in equity except, such as relates to separate support, adoption or the custody or support of minors; for release of dower or courtesy; for letters to a foreign guardian; petition for leave to compromise; and for leave to pay debts, except when the petitioner or accountant certifies that the estate does not exceed \$1,000 in value, \$75;

for the entry of a general petition except such as relates to adoption or custody or support of minors, \$150;

for the entry of a petition for removal of a fiduciary, \$100;  
for the amendment of record except such as relates to separate support, adoption or the custody or support of minors, for discharge of surety, for care of burial lot and for erection of a monument, \$60 each;  
for new bond and for new inventory, \$75 each;  
for filing a statement of voluntary administration, \$100;  
for the petition or application for allowance of an account where the gross value accounted for in Schedule A of the account is \$1,000 or less, no fee; where the gross value is more than \$1,000 but not more than \$10,000, \$75 a year; provided, however, that the fees shall not exceed \$170 regardless of the time covered by the account; where the gross value is \$10,000, more than \$10,000 but not more than \$100,000, \$100 for each year or major fraction thereof covered by the account; where the gross value is more than \$100,000 but not more than \$500,000, \$150 for each year or major fraction thereof covered by the account; where the gross value is more than \$500,000 and not more than \$1,000,000, \$200 for each year or major fraction thereof covered by the account; where the gross value is more than \$1,000,000, \$400 for each year or major fraction thereof covered by the account;  
for the petition or application for sale of real or personal estate an account where the gross value accounted for is \$100,000 or less, \$100; where the gross value is more than \$100,000 but not more than \$250,000, \$250; where the gross value is more than \$250,000 but not more than \$500,000, \$500; where the gross value is more than \$500,000 but less than \$1,000,000, \$750; where the gross value is more than \$1,000,000 but not more than \$1,000,000, \$750; where said gross value is over \$1,000,000, \$1000;  
for filing a motion for change of name, \$100;  
for filing a motion for the framing of jury issues, \$140;  
for filing a will for safekeeping, \$75; provided, that no additional fee shall be charged for filing a will in substitution for a will previously filed and withdrawn;  
for filing a bond, \$50;  
for issuance of an injunction, \$150;  
for issuance of a temporary restraining order, \$100; and  
for entry of an action for the modification of a decree, \$150.  
Notwithstanding this section, no fee shall be charged for the filing of a complaint to modify a temporary order or final judgment relating to support, maintenance or education of a child nor for the issuance of a temporary restraining order against a spouse related to a complaint for divorce or separate support.

SECTION 508. Section 56 of said chapter 262, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 4, the words “, other than a police officer of the metropolitan district commission,”.

SECTION 509. Section 33 of chapter 276 of the General Laws, as so appearing, is hereby amended by striking out the second sentence.

SECTION 510. Section 87A of chapter 276 of the General Laws, as most recently amended by section 13 of chapter 300 of the acts of 2002, is hereby further amended by striking out the second, third, fourth and fifth paragraphs and inserting in place thereof the following eight paragraphs:-

The court shall assess upon every person placed on supervised probation, including all persons placed on probation for offenses under section 24 of chapter 90, a monthly probation supervision fee, hereinafter referred to as "probation fee", in the amount of \$60 per month. Said person shall pay said probation fee once each month during such time as said person remains on supervised probation.

The court shall assess upon every person placed on administrative supervised probation a monthly administrative probation supervision fee, hereinafter referred to as "administrative probation fee", in the amount of \$20 per month. Said person shall pay said administrative probation fee once each month during such time as said person remains on administrative supervised probation.

Notwithstanding the foregoing, said fees shall not be assessed upon any person accused or convicted of a violation of section 1 or 15 of chapter 273, where compliance with an order of support for a spouse or minor child is a condition of probation.

The court may not waive payment of either or both of said fees unless it determines after a hearing and upon written finding that such payment would constitute an undue hardship on said person or his family due to limited income, employment status or any other factor. Following the hearing and upon such written finding that either or both of said fees would cause such undue hardship then: (1) in lieu of payment of said probation fee the court shall require said person to perform unpaid community work service at a public or nonprofit agency or facility, as approved and monitored by the probation department, for not less than one day per month and (2) in lieu of payment of said administrative probation fee the court shall require said person to perform unpaid community work service at a public or nonprofit agency or facility, as approved and monitored by the probation department, for not less than four hours per month. Such waiver shall be in effect only during the period of time that said person is unable to pay his monthly probation fee.

The court may waive payment of either or both of said fees in whole or in part if said person is assessed payment of restitution. In such cases, said fees may be waived only to the extent and during the period that restitution is paid in an amount equivalent to said fee. Said probation fee shall be collected by the several probation offices of the trial court and transmitted to the state treasurer for deposit into the General Fund. The state treasurer shall account for all such fees received and report said fees annually, itemized by court division, to the house and senate committees on ways and means.

The court shall also assess upon every person placed on supervised probation, including all persons placed on probation for offenses under section 24 of chapter 90, a monthly probationers' victim services surcharge, hereinafter referred to as "victim services surcharge", in the amount of \$5 per month. Said person shall pay said victim services surcharge once each month during such time as said person remains on supervised probation. The court shall assess upon every person placed on administrative supervised probation a monthly administrative probationer's victim services surcharge, hereinafter referred to as "administrative victim services surcharge" in the amount of \$1 per month.

Said person shall pay said administrative victim services surcharge once each month during such time as said person remains on administrative supervised probation. Notwithstanding the foregoing, said fees shall not be assessed upon any person accused or convicted of a violation of section 1 or 15 of chapter 273, where compliance with an order of support for a spouse or minor child is a condition of probation.

The court may not waive payment of either or both of said fees unless it has determined, after a hearing and upon written finding, that such payment would constitute an undue hardship on said person or his family due to limited income, employment status or any other factor. Such waiver shall be in effect only during the period of time that said person is unable to pay his monthly probation fee. Said probation fee shall be collected by the several probation offices of the trial court and shall be transmitted to the state treasurer for deposit into the General Fund of the commonwealth. The state treasurer shall account for all such fees received and report said fees annually, itemized by court division, to the house and senate committees on ways and means.

SECTION 511. The first paragraph of section 70C of said chapter 277 of the General Laws is hereby amended by striking out the last sentence and inserting the following 3 sentences:— Where the commonwealth has moved at arraignment or pretrial conference to proceed civilly and the court has allowed that motion, the court shall not appoint counsel. If counsel has already been appointed, the court shall revoke the appointment. A person complained of for such civil infraction shall be adjudicated responsible upon such finding by the court and shall not be sentenced to any term of incarceration.

SECTION 512. The second paragraph of said section 70C of said chapter 277, as so appearing, is hereby amended by inserting the following sentence:— An adjudication of responsibility under this section may include an order of restitution.

SECTION 513. Paragraph (f) of section 1 of chapter 465 of the acts of 1956 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:— Any obligation or expense hereafter incurred at the request of the Authority by the department of public works, the department of conservation and recreation or by the highway department of the city or by any other governmental agency for engineering and legal services in connection with the construction of a project and the financing thereof shall be regarded as a part of the cost of the project and shall be assumed and paid by the Authority, or reimbursed to the commonwealth or to the city or to such agency out of the proceeds of the revenue bonds hereinafter authorized.

SECTION 514. The fourth paragraph of section 4 of said chapter 465 is hereby amended by striking out the last sentence and inserting in place thereof the following sentence:— This section shall not apply to facilities on property of the commonwealth under the control of the department of highways or the department of conservation and recreation or installed under licenses or permits granted by said departments, except with its approval.

SECTION 515. The second paragraph of section 23 of said chapter 465 is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— The Authority may call upon the department of public works, the department of conservation and recreation, the department of commerce, the department of highways, the planning board of the city and such other state or city boards, commissions, divisions and agencies as may be deemed advisable for the purposes of assisting in making investigations, studies, surveys and estimates, and in policing the projects, and the Authority may arrange for payment for such services and expenses of those agencies in connection therewith.

SECTION 516. Section 58 of chapter 153 of the acts of 1992 is hereby repealed.

SECTION 517. Subsection (h) of section 110 of chapter 5 of the acts of 1995 is hereby amended by striking out the second paragraph and inserting in place thereof the following paragraph:— Recipients not qualifying as exempt under the provisions of subsection (e) shall participate in the work program established by subsection (j).

SECTION 518. Item 7220-0960 of section 2 of chapter 267 of the acts of 1995 is hereby amended by adding the following words:— ; provided further, that notwithstanding any general or special law to the contrary, the trustees of the university or an officer designated by it may enter into agreements with the commissioner of conservation and recreation for repairs and improvements to, and cooperative operation and management of, the Bellegarde Boathouse property in the city of Lowell, and such cooperative management and operation of the adjacent Sampas Pavilion and Regatta Field as may be agreed upon and the cost for such repairs and improvements may be paid from this item; provided further, that an agreement may also provide that revenues derived from use of the boathouse property or from use of the Sampas Pavilion and Regatta Field may be deposited in a trust fund established by the university pursuant to section 11 of chapter 75 of the General Laws and expended for the maintenance and operation of the boathouse; and provided further, that the university may expend funds from this item for necessary maintenance and operation.

SECTION 519. Section 2 of chapter 267 of the acts of 1995 is hereby amended, in item 7511-7961, by adding the following words:— “; provided that not less than \$300,000 of the amount appropriated shall be expended for the purpose of conducting a study to create a master plan that would assess the capital and facility needs of the T.W. McGee Building and other buildings located on the Lynn campus of North Shore Community College and that would analyze the feasibility of allowing North Shore Community College to enter a multi-year agreement with private entities relative to capital and facility needs at this site.”

SECTION 520. The definition of “Project” in section 2 of chapter 152 of the acts of 1997 is hereby amended by adding the following sentence:— The term shall also include the Springfield Civic Center in the city of Springfield, the Hynes Convention Center in the city of Boston and the Boston common garage in the city of Boston.

SECTION 521. The first sentence of subsection (b) of section 10 of said chapter 152, as appearing in section 5 of chapter 45 of the acts of 2001, is hereby amended by inserting after the words “special receipts”; the following words:— shall be received and held by the state treasurer or his designee as the trustee of the Convention Center Fund not on account of the commonwealth and.

SECTION 522. The first sentence of subsection (b½) of said section 10 of said chapter 152, as so appearing, is hereby amended by inserting after the words “special receipts”; the following words:— shall be received and held by the state treasurer or his designee as the trustee of the Convention Center Fund not on account of the commonwealth and.

SECTION 523. Said section 10 of said chapter 152 is hereby further amended by striking out subsection (e).

SECTION 524. Subsection (a) of section 11 of said chapter 152, as amended by section 7 of chapter 450 of the acts of 2001, is hereby further amended by adding the following sentence:— Such bonds shall be issued for such maximum term of year, not exceeding 30 years, as the governor may recommend to the general court in accordance with section 3 of Article LXII of the Amendments to the Constitution, but all such bonds shall be payable not later than June 30, 2038.

SECTION 525. Subsection (c) of said section 11 of said chapter 152 is hereby amended by adding the following paragraph:— Notwithstanding the foregoing, the state treasurer, with the concurrence of the secretary of administration and finance, may fund the Capital Reserve Fund in whole or in part with a surety bond, insurance policy or other form of credit enhancement and the balance on deposit from time to time in the Capital Reserve Fund for all purposes in this section shall be deemed to include an amount equal to the unpaid stated amount of such surety bond, insurance policy or other form of credit enhancement. All amounts drawn on or otherwise received from such surety bond, insurance policy or other form of credit enhancement shall be deposited by the state treasurer in the Capital Reserve Fund except to the extent otherwise provided in the trust or security agreement securing such bonds.

SECTION 526. Subsection (g) of said section 11 of said chapter 152 is hereby amended by striking out clause (iii) and inserting in place thereof the following clause:—  
(iii) in any fiscal year of the commonwealth, until the treasurer, with the concurrence of the secretary of administration and finance, has determined that special receipts or other pledged funds have been or will be deposited in the Convention Center Fund in an amount sufficient to pay when due the principal, including sinking fund payments, of and interest on all such bonds payable in such fiscal year and to maintain the capital reserve fund described in subsection (c), no such special receipts or other pledged funds shall be applied to any other use.

SECTION 527. Subsection (h) of section 110 of chapter 5 of the acts of 1995 is hereby amended by inserting at the end thereof the following:—  
Recipients not qualifying as exempt under the provisions of subsection (e) and whose child of record is under the age at which full-time school attendance is mandatory may, without penalty, choose not to participate in the work program established by subsection (j) if they need child care services and the Office of Child Care Services determines that there will not be sufficient funding or space to provide child care services to the recipient's child while the recipient is participating in the work program established by subsection (j).

SECTION 528. Subsection (j) of section 110 of chapter 5 of the acts of 1995 is hereby amended by inserting at the end thereof the following:—  
Recipients not qualifying as exempt under the provisions of subsection (e) and whose child of record is under the age at which full-time school attendance is mandatory in the city or town in which such child resides, may meet said work requirement through education and training programs that meet the requirements of the federal Personal Work and Responsibility Act of 1996.

SECTION 529. Section 284 of chapter 194 of the acts of 1998 is hereby repealed.

SECTION 530. Section 316 of chapter 194 of the acts of 1998 is hereby repealed.

SECTION 531. Section 357 of chapter 159 of the acts of 2000 is hereby repealed.

SECTION 532. Section 403 of said chapter 159 is hereby repealed.

SECTION 533. Notwithstanding any general or special law to the contrary, the division of medical assistance shall not pay a nursing facility for reserving a bed for residents receiving benefits under chapter 118E of the General Laws who are absent from the facility on so-called medical leaves of absence and non-medical leaves of absence.

SECTION 534. (A) Notwithstanding the provisions of any general or special laws to the contrary, the division of medical assistance may revise and amend its clinical criteria for payment for nursing facility services.  
(B) Notwithstanding any general or special law to the contrary, any resident of a nursing home receiving medicaid benefits who meets the criteria in effect prior to July 1, 2003 shall not be subject to the provisions of subclause (A).  
(C) Said Division shall seek a waiver to allow a broader standard for home and community-based services.

SECTION 535. Notwithstanding any general or special law to the contrary, the division of medical assistance may develop or amend any standards and regulations applicable to personal care attendant services as the division determines to be necessary and appropriate for the proper and efficient operation of the medical assistance and medical benefits programs administered under chapter 118E of the General Laws.

SECTION 536. Section 36 of chapter 88 of the acts of 2001 is hereby repealed.

SECTION 537. The definition of "Balanced budget" in section 33 of chapter 184 of the acts of 2002 is hereby amended by striking out clause (ii) and inserting in place thereof the following clause:—  
(ii) the amount transferred to the stabilization fund under subsection (a) of section 5C is greater than or equal to ½ of 1 per cent of state tax revenue for such fiscal year.

SECTION 538. Section 43 of chapter of chapter 184 of the acts of 2002 is hereby repealed.

SECTION 539. Section 194 of chapter 184 of the acts of 2002 is hereby repealed.

SECTION 540. Item 2000-2013 of section 2 of chapter 236 of the acts of 2002 is hereby amended by inserting after the words “in the city of Woburn” the following words:— ; provided further, that not less than \$1,750,000 shall be expended for the acquisition of the Dunn property, — so-called, in the town of West Newbury, however, in the event that the town expends its own funding for acquisition of the property, it will be reimbursed;

SECTION 541. Said item 2000-2013 of said section 2 of said chapter 236 is hereby further amended by striking out the figure “\$21,250,000” and inserting in place thereof the following figure:— \$23,000,000.”

SECTION 542. [HF982/SF519C - Dunn Property III] Item 2100-2011 of said section 2 of said chapter 236 is hereby amended by striking out the words “; provided further, that \$1,750,000 shall be expended for the acquisition of the Dunn property, so-called, in the town of West Newbury”

SECTION 543. Said item 2100-2011 of said section 2 of said chapter 236 is hereby further amended by striking out the figure \$46,425,000” and inserting in place thereof the following figure:— \$44,675,000.”

SECTION 544. Section 5 of chapter 244 of the acts of 2002 is hereby amended by adding the following paragraph at the end thereof:- During fiscal year 2004, funds shall be expended by the department of housing and community development, from the sums set forth and made available in item 7004-7013 of section 2, to institute a program of rolling stock housing for households that are eligible for residence in and who have actually resided in scattered site shelters funded through line item 4403-2120 of section 2 of the General Appropriations Act, as said item funding is administered by the department of transitional assistance, for not less than 6 months. Said department of transitional assistance, in conjunction and collaboration with the department of housing and community development, shall assist families from such eligible households in negotiating rental agreements for permanent housing at the current scattered site placement or, if possible, at an alternative placement located within 20 miles of the household's home community with the assistance of any state rental voucher program or federal housing choice voucher program. During fiscal year 2004, said program shall seek to provide such rolling stock housing for not less than 400 eligible families.

SECTION 545. Notwithstanding the provisions of any general or special law to the contrary, the department of capital assets maintenance and management may expend from capital authorizations amounts necessary to cover the operational costs not to exceed \$14 million of the department for fiscal year 2004.

SECTION 546. The first sentence of section 1 of chapter 256 of the acts of 2002 is hereby amended by striking out the words “subject to sections 40E to 40J, inclusive,” and inserting in place thereof the following words: “notwithstanding section 40F½”.

SECTION 547. Said first sentence of said section 1 of said chapter 256 is hereby further amended by striking out after the words “General Laws,” the word “to.”

SECTION 548.. (a) For the purposes of this section, the following terms shall have the following meanings, unless the context clearly requires otherwise:

“Commissioner”, the commissioner of the department of capital assets management and maintenance.

“Real property”, as defined in section 39A of chapter 7 of the General Laws.

“State agency”, as defined in said section 39A(v) of said chapter 7.

“Surplus real property”, real property of the commonwealth (i) previously determined to be surplus to current and foreseeable state needs pursuant to sections 40F or 40F½ of said chapter 7, but excluding real property for which there is an established local reuse plan; or (ii) determined to be surplus to current and foreseeable state needs pursuant to this section. The term “surplus real property” shall not include property subject to Article 97 of the amendments to the constitution.

(b) Notwithstanding sections 40E to 40F½, inclusive, and 40H of said chapter 7 of the General Laws, or any other general or special law to the contrary, the commissioner may sell, lease for a term not to exceed 99 years, transfer or otherwise dispose of surplus real property of the commonwealth, as specified in this section.

(c) In order to determine if specified real property is surplus to the current and foreseeable needs of the commonwealth, the commissioner shall provide a suitable written notice and inquiry to the several secretaries, with a date certain for any response. If no executive office responds in writing by the date so specified that an agency has a current or foreseeable need for the real property, the commissioner may declare the property as surplus and dispose of it in accordance with this section. Alternatively, if a written response is timely received specifying a current or foreseeable need for the real property, the commissioner shall, in consultation with the secretary of administration and finance and with those responding affirmatively, determine whether the real property shall (i) be made available for current use by a state agency, (ii) be retained on account of a foreseeable use by a state agency, or (iii) be declared surplus real property which may be disposed of pursuant to this section.

(d) When real property is determined to be surplus to current state needs but not to foreseeable state needs, the commissioner shall take such necessary action to ensure that any disposition of the real property is temporary and maintains the commissioner’s ability to make such real property available to a state agency as needed.

(e) If the commissioner determines that the real property is surplus, he shall (i) provide written notice, for each city or town in which the property is located, to the city manager in the case of a city under Plan E form of government, the mayor and city council in the case of all other cities, the chairman of the board of selectmen in the case of a town, the county commissioners, the regional planning agency and the members of the General Court; (ii) declare it available for disposition and shall identify restrictions, if any, on its use and development necessary to comply with the policies and principles established by the commonwealth development coordinating council established in section 8B of chapter 6A of the General Laws and shall take into consideration other established state and local plans and policies; (iii) conduct a public hearing in the locality in which the property is located to consider potential reuses and appropriate restrictions if the property parcels exceeds 2 acres or if the commissioner determines that a hearing should be held for a smaller parcel and shall provide reasonable public notice in advance of the hearing; and (iv) ensure that any deed, lease or other disposition agreement shall set forth all such reuse restrictions, provide for effective remedies on behalf of the commonwealth and

provide, in the event of a failure to comply with the reuse restrictions by the grantee, lessee or other recipient, that title or such lesser interest as may have been conveyed, shall immediately revert to the commonwealth.

(f) The commissioner shall establish the value of surplus real property using customarily accepted appraisal methodologies. The value shall be calculated both for (i) the highest and best use of the property as may be encumbered, and (ii) subject to uses, restrictions and encumbrances defined by the commissioner. In no instance in which the commonwealth retains responsibility for maintaining the said property shall the terms provide for payment of less than the annual maintenance costs.

(g) The commissioner shall dispose of surplus real property utilizing appropriate competitive processes and procedures. Such competitive processes may include, but are not limited to, absolute auction, sealed bids and requests for price and development proposals.

At least 30 days before the date of an auction or the date on which bids or proposals or other offers to purchase or lease surplus real property are due, the commissioner shall place a notice in the central register published by the state secretary pursuant to section 20A of chapter 9 stating the availability of such property, the nature of the competitive process and other information deemed relevant, including the time and location of the auction, the submission of bids or proposals and the opening thereof.

(h) The commissioner shall place a notice in the central register identifying the individual or firm selected as party to such real property transaction, along with the amount of such transaction. If the commissioner accepts an amount below the value calculated under subsection (f), he shall include the justification therefore, specifying the difference between the calculated value and the price received.

(i) No agreement for the sale, lease, transfer or other disposition of surplus real property and no deed, executed by or on behalf of the commonwealth, shall be valid unless such agreement or deed contains the following certification, signed by the commissioner:

“The undersigned certifies under penalties of perjury that I have fully complied with section 545 of chapter \_\_\_ of the acts of 2003 in connection with the property described herein.”

(j) No agreement for the sale, lease, transfer or other disposition of surplus real property shall be valid unless the purchaser or lessee has executed and filed with the commissioner the statement required by section 40J of chapter 7 of the General Laws.

(k) The grantee or lessee of any surplus real property shall be responsible for all costs including, but not limited to, appraisals, surveys, plans, recordings and any other expenses relating to the transfer, as shall be deemed necessary by the commissioner.

(l) This section shall not apply to the disposition of real property that is the subject of a special act having an effective date prior to that of this section.

(m) The authority granted the commissioner hereunder shall cease as of June 30, 2005, however, the commissioner may complete any transaction for which agreements have been signed and delivered on or before that date.

(n) The commissioner shall deposit \$30 million of the proceeds realized from property dispositions pursuant to this section into the General Fund. Any proceeds in excess of that amount shall be deposited into the Commonwealth Stabilization Fund, established in section 2H of chapter 29 of the General Laws.

SECTION 549. Section 17A of chapter 6 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after the word "finance", in line 3, the following words:- , the secretary of economic development.

SECTION 550.] Chapter 6A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by inserting after section 16F the following section:-

Section 16G. (a) Within the executive office of economic development, there shall be a department of business and technology, a department of consumer affairs and business regulation, a department of labor, and a department of workforce development. Subject to appropriation, the departments shall be provided with offices in Boston and elsewhere as may be approved by the governor and may expend sums for necessary expenses of those departments. The executive office may accept gifts or grants of money or property whether real or personal, from any source, public or private, including, but not limited to, the United States of America or its agencies, for the purpose of assisting the departments in the discharge of their duties.

b) The following state agencies shall be within the department of business and technology: the office of business development, the office of small business and entrepreneurship, the office of science and technology, the office of travel and tourism, the trade office and the office of minority and women business assistance.

(c) The following state agencies shall be within the department of consumer affairs and business regulation: the state racing commission, the division of banks, the division of insurance, the division of standards, the department of telecommunications and energy, the division of professional licensure and the division of energy resources.

(d) The following state agencies shall be within the department of labor: the division of industrial accidents, the division of conciliation and arbitration, the labor relations commission, the joint labor-management committee, the division of occupational safety, and the division of unemployment assistance. The division of unemployment assistance shall include the medical security trust fund and the unemployment insurance fund.

(e) The following state agencies and fund will be within the department of workforce development: the one stop career centers, the state workforce investment board, the division of apprentice training, the commonwealth corporation and the workforce training fund.

(f) The secretary of economic development shall be appointed by the governor and shall be a person of skill and experience in the field of economic development. The secretary shall serve at the pleasure of the governor, shall receive such salary as the governor shall determine and shall devote full time to the duties of his office.

(g) In the case of a vacancy in the office of the secretary or in the case of a disability, as determined by the governor, or in his absence, the governor may designate an acting secretary to serve until the vacancy is filled or the absence or disability, as determined by the governor, ceases. The acting secretary shall have all the powers and duties of the secretary and shall have like qualifications.

(h) The secretary shall appoint a director for each department within the executive office. Any such director and any inspectors and other full-time employees appointed shall devote their full time during business hours to the duties of their offices and shall not engage in other employment or business activities during business hours. In accordance with the provisions of chapter 30A, and with the advice of the directors of the various departments, the secretary shall promulgate regulations with respect to the departments under the secretariat's control.

(i) In accordance with chapter 30A, the secretary shall require the directors of each department to develop performance measures to evaluate the effectiveness of the individual agencies and programs in accomplishing their missions. The measures, by department, shall include, but not be limited to:

- 1.) In the department of workforce development: income levels of program participants before and after participation in training programs administered by the division, completion rates, placement rates and the total number of individual participants in the division's programs, employer satisfaction with the programs and direct training expenditures as a share of total expenditures;
- 2.) In the department of labor: the number of complaints filed, the number of caseworkers per completed case, the number of caseworkers per uncompleted case, the rates of incidences of occupational injuries and illnesses, enforcement actions as a share of complaints received and prevention costs as a share of total program costs;
- 3.) In the department of economic development: the incremental job growth attributed to services provided, the incremental trade growth attributed to the services provided, the return on investment for marketing campaigns, the number of businesses that relocated to Massachusetts as a result of marketing campaigns, the share of expenses due to administrative expenses, the amount of non-governmental funds leveraged;

(j) The secretary shall require the departments within the executive office to report on the measures annually by December 15 to the clerks of the house of representatives and the senate and the house and senate committees on ways and means. In its report, each department may include analysis as to why the measures may or may not give a true indication of the effectiveness of the programs.

(k) The secretary shall establish in the executive office an office of planning and research for economic development. The office shall compile and produce statistics and analyses regarding labor markets and the general economic situation, in order to assist workers and businesses and to assist departments within the executive office in carrying out their missions. The office shall prepare and annually update a state economic data book, which shall contain a statistical and economic profile of the state and its regions. A copy of said data book shall be placed in the state library and in the central offices of the division of unemployment assistance, the department of labor, and the department of workforce development and shall be made available to any person for review. The secretary may accept gifts or grants of money or property, whether real or personal, from any source, public or private, including, but not limited to, the United States of America or its agencies, for the purpose of assisting the office in the discharge of its duties. Subject to appropriation, the secretary may appoint a senior staff member who shall be responsible for developing a comprehensive plan to promote economic development in all regions of the commonwealth. Nothing in this section shall confer any powers or impose any duties upon the secretary with respect to the foregoing agencies except as expressly provided by law.

SECTION 551. Section 2 of said chapter 6A, as so appearing, is hereby amended by striking out, in line 2, the words "elder affairs" and inserting in place thereof the following words:- economic development, elder affairs.

SECTION 552. Section 17C of chapter 6A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 3 and lines 6 and 7, the words "and workforce development"

SECTION 553. Section 17D of chapter 6A of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in line 4 and lines 7 and 8, the words "and workforce development"

SECTION 554. Chapter 23 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out sections 1 to 6 and inserting in place thereof, the following:—

Section 1. (a) Within the executive office of economic development, there shall be a department of labor, in this chapter called the department. The mission of the department shall be to ensure the efficient operation of agencies, which promote harmonious relations between employers and employees and the general welfare of workers.

(b) Subject to appropriation, the department shall be provided with such offices in Boston and elsewhere in the commonwealth as may be approved by the governor and may expend sums for other necessary expenses of said department. Said department may accept gifts or grants of money or property, whether real or personal, from any source, public or private, including, but not limited to, the United States of America or its agencies, for the purpose of assisting the departments in the discharge of their duties.

Section 2. (a) The director shall be the executive and administrative head of the department and shall be responsible for administering and enforcing the laws relative to the department and to each administrative unit thereof.

(b) The director shall be appointed by the governor for a term coterminous with the governor and shall not be subject to chapter 31 or section 9A of chapter 30. Upon expiration of the term of office of the director or in the event of a vacancy, a successor shall be appointed by the governor for a term coterminous with the governor. The director shall devote his full time during business hours to the duties of his office.

(c) The director shall receive such salary as the governor shall determine, provided that such salary shall be equivalent to the salary received by the director of business and technology, director of workforce development, or the director of consumer affairs and business regulation.

Section 3. (a) Within the department, there shall be the following agencies and divisions: the division of unemployment assistance, the division of industrial accidents, the state labor relations commission, the joint labor-management committee for municipal police and fire, the board of conciliation and arbitration, and the division of occupational safety.

(b) The duties of the department shall include, and the department shall have authority and responsibility over, the administration and enforcement of section 3, 5, 9H and 11A; the provisions of chapter 111F; the provisions of chapters 149, with the exception of section 160 to 168A, and 151; the provisions of chapter 151A; and the provisions of subsections (b), (c), (e) and (f) of section 197B of chapter 111. Notwithstanding any general or special law to the contrary, the attorney general shall have exclusive authority to conduct field investigations, inspections, and civil and criminal prosecutions with respect to, and otherwise enforce, said chapters 149 and laws pertaining to wages, hours and working conditions, child labor and workplace safety and fair competition for bidders on public construction, except the laws pertaining to lead and asbestos hazards and workplace hygienic standards which the department shall enforce.

(c) The division of industrial accidents, the labor relations commission, the joint labor-management committee, and the board of conciliation shall not be subject to the jurisdiction of the department of labor, except to the extent of compliance with reasonable requests from the director for the sharing of information which does not interfere with the efficient and independent functioning of the offices, divisions or agencies.

(d) The following funds shall be within the division of unemployment assistance: the Unemployment Insurance Trust Fund and the Medical Security Trust Fund.

Section 3A. There shall be a surcharge on fees assessed by the division of occupational safety within the department of economic security for the licensure, registration or certification of certain professionals, and on fees assessed for the renewal or duplication of such licenses, registrations or certifications, in accordance with the provisions of this section. The amount of the surcharge shall be as follows: a \$25 annual surcharge to those persons licensed or certified individually by the division of occupational safety to perform deleading services; a \$25 annual surcharge to those persons licensed or certified individually by the division of occupational safety to perform asbestos abatement services; a \$50 annual surcharge to those persons licensed or certified on behalf of corporate and other classifications of businesses by the division of occupational safety to perform deleading services; a \$50 annual surcharge to those persons licensed or certified on behalf of corporate and other classifications of businesses by the division of occupational safety to perform asbestos abatement services; a \$50 annual surcharge to those persons licensed or certified by the division of occupational safety to provide asbestos abatement analytical services; a \$50 annual surcharge to those persons licensed or certified by the division of occupational safety to provide asbestos abatement training; a \$50 annual surcharge to those persons licensed or certified by the division of occupational safety to provide deleading training; and a \$50 annual surcharge to those persons licensed or registered to operate an employment agency as defined by section 46A of chapter 140. Said surcharges shall be collected by the division of occupational safety and transmitted to the treasurer for deposit into the general fund.

Section 4. The director may employ, for periods not exceeding ninety days, such experts as may be necessary to assist the department in the performance of any duty imposed upon it by law, and such employment shall be exempt from chapter 31. Except as otherwise provided, the director may employ and remove such inspectors, investigators, clerks and other assistants as the work of the department may require. Such number of inspectors as the commissioner may deem necessary shall be persons who, before their employment as such, have had at least three years' experience as building construction workmen. The commissioner may require that certain inspectors in the department, not more than seven in number, shall be persons qualified by training and experience in matters relating to health and sanitation. All inspectors and other permanent employees of the department shall devote their whole time to the affairs of the department. All directors and inspectors and such other employees as may be designated by the commissioner shall, before entering upon their duties, be sworn to the faithful performance thereof. The number of inspectors heretofore authorized by law may be increased only with the approval of the governor and the council.

SECTION 555. Section 9J of said chapter 23 is hereby amended by striking out the first sentence and inserting in place thereof, the following sentences:—

The secretary, in consultation with the director of labor, may adopt, amend, alter or repeal, and shall enforce, all rules, regulations and orders as may be necessary or suitable for the administration and enforcement of chapter 151A. The director shall seek the approval of the director of workforce development where said changes may affect the operations of the free public employment offices.

SECTION 556. Section 9L and 9M of said chapter 23 are hereby repealed.

SECTION 557. Section 9N of said chapter 23 is hereby amended by striking the words "division of employment and training", inserted by section 1 of chapter 347 of the acts of 2002, and inserting in place thereof the following words:—unemployment assistance.

SECTION 558. Said section 9N of said chapter 23 is hereby further amended by striking out the words "employment and training", as inserted by section 2 of said chapter 347, and inserting in place thereof the following words:—unemployment assistance.

SECTION 559. Section 11A of said chapter 23, as appearing in the 2000 official edition is hereby amended by striking the phrase "division of occupational hygiene" in line 3, and inserting in place thereof, the following:— division of occupational safety.

SECTION 560. Section 11E of Chapter 23 of the General Laws, as appearing and amended by chapter 357 of the acts of 2002, is further amended by striking the first sentence and inserting in place thereof, the following:— There shall be in the department of workforce development an apprenticeship council, to consist of 8 members, 6 of whom shall be appointed by the director of workforce development with the approval of the governor, 1 of whom shall be the director of workforce development or his successor, in the



department of workforce development, ex officio, and 1 of whom shall be the associate commissioner of career and technical education or his successor, in the department of education, ex officio.

SECTION 561. Section 11H of Chapter 23 of the General Laws, as amended by chapter 357 of the acts of 2002, is further amended by striking the definition “director” and inserting in place thereof, the following:— “Director”, the director of workforce development.

SECTION 562. Section 11H of Chapter 23 of the General Laws, as amended by chapter 357 of the acts of 2002, is further amended by striking the definition “division” and inserting in place thereof, the following:— “Division”, the division of apprentice training in the department of workforce development.

SECTION 563. Chapter 23A of the General Laws is hereby amended by striking out section 1, as appearing in the 2000 Official Edition, and inserting in the place thereof the following section:-

Section 1. (a) Within the executive department, but not within the governor’s cabinet, there shall be a department of business and technology, in this chapter called the department, which shall be under the control of the director of business and technology. The director shall be appointed by the governor for a term conterminous with the governor’s and shall not be subject to chapter 31 or section 9A of chapter 30. Upon expiration of the term of office of the director or in the event of a vacancy, a successor shall be appointed by the governor for a term conterminous with that of the governor. The director shall devote his full time during business hours to the duties of his office. The director shall be the executive and administrative head of the department and shall be responsible for administering and enforcing the laws relative to the department and to each administrative unit thereof. The director shall receive such salary as the governor shall determine; provided, however, that such salary shall be equivalent to the salary received by the director of labor and workforce development or the director of consumer affairs and business regulation.

(b) There shall be within the department the Massachusetts office of business development hereinafter referred to as MOBD, and all other entities within that office, the office of travel and tourism, the office of small business and entrepreneurship, the Massachusetts trade office, the office of science and technology and the office of minority and women business assistance and all entities within that office.

(c) The department may make discretionary and nondiscretionary grants to persons or public or private nonprofit entities for projects and programs which further implement the mission of the department and its agencies and which benefit the general public; provided, however, that the department shall annually make a report to the secretary of administration and finance and the house and the senate committees on ways and means on the use of such funds; and provided further, that any such grant shall be used in accordance with regulations promulgated pursuant to section 15 of chapter 7A.

SECTION 564. Section 3B of said chapter 23A, as so appearing, is hereby amended by striking out, in lines 3 to 10, inclusive, the words “economic development or his designee who shall serve as co-chairperson; the director of housing and community development or his designee who shall serve as co-chairperson; the director of labor and workforce development or his designee; a representative of MOBD designated by the director of economic development; the deputy director of the department of economic development having oversight responsibility of the Massachusetts office of business development or his designee” and inserting in place thereof the following words:- business and technology or his designee who shall serve as co-chairperson; the director of housing and community development or his designee who shall serve as co-chairperson; the director of labor, or his designee; and the director of workforce development or his designee; a representative of MOBD designated by the director of business and technology; the deputy director of business and technology having oversight responsibility of the office of business and technology or his designee.

SECTION 565. Section 45 of said chapter 23A is hereby repealed.

SECTION 566. The second paragraph of section 13A of said chapter 23A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- The tourism executive director shall be appointed by the director of business and technology, with the approval of the governor and the secretary of economic development, and may, with like approval, be removed

SECTION 567. The first paragraph of section 23A of said chapter 23A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:- There shall be within the department of business and technology a Massachusetts trade office, which shall be under the supervision and control of an executive director.

SECTION 568. Said section 23A of said chapter 23A, as so appearing, is hereby further amended by striking out, in lines 11 and 12, the words “office of international trade and investment” and inserting in place thereof the following words:- Massachusetts trade office.

SECTION 569. Chapter 23D of the General Laws is hereby amended by striking out section 2, as so appearing, and inserting in place thereof the following section:-

Section 2. A Massachusetts industrial service program shall be established in the executive office of economic development, under the joint supervision of the director of business and technology, the director of the department of labor, and the director of workforce development.

The secretary, in consultation with the director of business and technology, the director of labor, and the director of workforce development, shall issue rules, regulations and procedures governing the application for and delivery of the services provided for in this section and sections 3 to 7, inclusive, and sections 24 to 26, inclusive, as necessary to carry out this chapter.

SECTION 570. Section 7 of chapter 23G of the General Laws, as so appearing, is hereby amended by striking out, in line 61, the words “office of international trade and investment,” and inserting in place thereof the following words:- trade office.”;

SECTION 571. The General Laws are hereby amended by inserting after chapter 23G the following chapter:—  
Chapter 23H

Section 1. (a) Within the executive office of economic development, there shall be a department of workforce development, in this chapter called the department.

(b) The mission of the department shall be to develop, coordinate, and maintain a coherent workforce development system that fills the needs of employers for a skilled workforce and promotes lifelong learning among employees. The department shall cooperate with all federal, state, and local agencies active in the field of workforce development to achieve this goal

(c) Subject to appropriation, the department shall be provided with such offices in Boston and elsewhere in the commonwealth as may be approved by the governor and may expend sums for other necessary expenses of said department. Said department may accept gifts or grants of money or property, whether real or personal, from any source, public or private, including, but not limited to, the United States of America or its agencies, for the purpose of assisting the departments in the discharge of their duties.

Section 2. (a) The director shall be the executive and administrative head of the department. Except as otherwise provided, he shall be responsible for the administration and enforcement of all laws, rules and regulations for which it is the duty of the department to administer and enforce.

(b) The director shall be appointed by the governor for a term coterminous with the governor and shall not be subject to chapter 31 or section 9A of chapter 30. Upon expiration of the term of office of the director or in the event of a vacancy, a successor shall be appointed by the governor for a term coterminous with the governor. The director shall devote his full time during business hours to the duties of his office.

(c) The director shall receive such salary as the governor shall determine, provided that such salary shall be equivalent to the salary received by the director of business and technology, director of labor, and the director of consumer affairs and business regulation.

Section 3. Within the department, there shall be the following agencies and divisions: a division of apprentice training, which shall administer the provisions of sections 11E to 11W, inclusive of chapter 23; a division of one-stop career centers, which shall administer the provisions of section 6 of this chapter, and other divisions as the director deems necessary to administer and enforce the department's other obligations. The department shall also work as a partner with the Commonwealth Corporation where appropriate, and as approved by the secretary, in consultation with the director and the president of the Commonwealth Corporation.

Section 4. (a) Subject to appropriation, the director of workforce development, shall make expenditures on workforce training grants for the following purposes:

(1) To provide grants to employers, employer groups, labor organizations and training providers for projects to provide education and training to existing employees and newly hired workers. In determining who shall receive grants, the director shall consider the following criteria:

- (i) whether the project will increase the skills of low-wage, low-skilled workers;
- (ii) whether the project will create or preserve jobs at wages sufficient to support a family;
- (iii) whether the project will have a positive economic impact on a region with high levels of unemployment or a high concentration of low-skilled workers;
- (iv) whether the employer has made a commitment to provide significant private investment in training during the duration of the grant and after the grant has expired;
- (v) whether the project will supplement, rather than replace, private investments in training;
- (vi) whether the employer is a small business that lacks the capacity to provide adequate training without such assistance;
- (vii) whether the project will provide residents of the commonwealth with training for jobs that could otherwise be filled only by residents of other nations; and
- (viii) whether the project is consistent with the workforce development blueprint prepared by the regional employment board.

Such grants shall be for amounts not to exceed \$250,000 and shall be for a term not to exceed 2 years.

(2) To provide technical assistance to increase training opportunities available to employees. The director may provide this direct technical assistance by using existing institutions such as workforce investment boards, community colleges, labor organizations, administrative entities under the federal Workforce Investment Act, Public Law 105-220, and other entities that have expertise in providing technical assistance regarding employee training or with employees of the department of workforce development or of the corporation for business, work and learning. Such expenditures shall not exceed \$3,000,000 each year and the director shall demonstrate that each dollar expended generates not less than \$5 in private investment in job training.

(b) The director of the department of workforce development shall adopt regulations, with the approval of the secretary, pursuant to chapter 30A to carry out this section.

(c) Not later than September 1 of each year, the director of workforce development shall file a report in writing with the joint committee on commerce and labor and the house and senate committees on ways and means concerning the grants made in the fiscal

year ending on the preceding June 30, together with such recommendations and additional information as the director of workforce development considers appropriate.

(d) Documentary materials or data made or received by an employee of the department of workforce development, to the extent that such materials or data consist of trade secrets or commercial or financial information regarding the operation of a business conducted by an applicant for a grant from the fund established by this section, shall not be public records and shall not be subject to section 10 of chapter 66.

Section 6. (a) The director of workforce development shall administer the system of free public employment offices established in sections 160 through 168A of Chapter 149, through the division of one-stop career centers.

(b) Said division shall have control of the establishment, maintenance and operation of free public employment offices of the commonwealth and shall co-operate with the Massachusetts rehabilitation commission in the placement of handicapped persons under the provisions of section 81 of chapter 6. The department shall be the state agency for co-operation with the United States Employment Service under chapter 49 of the acts of the 73rd congress, session I, known as the Wagner-Peyser act, and shall have all the powers of such an agency as specified in said act.

The director shall assure that all information secured as an incident to the public employment service program is used solely for the purpose of administering the commonwealth system of public employment offices as part of a national system of public employment offices, except that such information may be disclosed for other purposes in accordance with policies promulgated by the deputy director of employment security, provided that such disclosure will not impede the operation of or be inconsistent with the purposes of the public employment service program, or where such disclosure is otherwise authorized or required by law. Whoever discloses such information other than as required or authorized by law shall be subject to the penalty set forth in section 46 of chapter 151A.

(c) The director, in consultation with the secretary, shall divide the commonwealth into employment districts. Subject to appropriation, he may establish and maintain such additional free public employment offices as he may find necessary. The director may contract with one-stop operators, certified in accordance with the provisions of Public Law 105-220, to provide such offices and shall have all the powers of such an agency as specified in said act. In addition, the director shall consult with the deputy director of the division of unemployment assistance to determine the share of the capital and operating expenses of said offices necessary or convenient for the proper administration of chapter 151A. The division of unemployment assistance shall reimburse the department for said share. Said offices shall be available for the payment of benefits, presentation of claims, registration of the unemployed, action to procure employment for the unemployed, and for the proper administration of chapter 151A.

Section 7. (a) There shall be in the department, but not subject to the jurisdiction thereof, a state workforce investment board, hereinafter called the board.

(b) The board shall consist of the governor; 3 members of the senate, 2 of whom shall be appointed by the senate president and 1 of whom shall be appointed by the minority leader; 3 members of the House, two of whom shall be appointed by the speaker of the house and 1 of whom shall be appointed by the minority leader; the secretary of economic development; the secretary of health and human services; the director of the department of workforce development; the director of the department of business and technology; the commissioner of transitional assistance; the commissioner of the department of education; the chancellor of the board of higher education or another official appointed by the governor representing education and training issues; the head of the division of unemployment assistance; and the following additional members, as appointed by the governor: 2 mayors or chairs of boards of selectmen; 2 persons with experience with youth activities; 2 persons with experience and expertise in the delivery of workforce investment activities, including 1 president of a community college in the commonwealth; 11 persons representing public government, public secondary and post-secondary education, and organizations representing or providing services to trainees, including at least 3 representatives of organized labor, 2 of who shall be selected from among individuals nominated by state labor federations; and 33 persons representing business and industry in the commonwealth to be selected from among individuals nominated by state business associations and trade organizations, including at least 3 chairs of workforce investment boards. The members shall serve two-year terms at the pleasure of the governor, and shall serve without compensation.

(c) The governor shall select an individual to serve as chairperson of the board from among the members. The Chair shall serve at the pleasure of the governor.

(d) There shall be an executive committee of the state workforce investment board.

i) The executive committee shall be chaired by the director of workforce development, and include the following members: a community college president with expertise in workforce development issues, selected by the Massachusetts Community College Association; the director of adult basic education in the department of the Board Education; the commissioner of the department of transitional assistance; two individuals who, because of their vocations, employments, occupations, or affiliations, shall be classed as employers; and two individuals who, for like reasons, can be classed as employees. Said members shall be, by virtue of their membership on the executive board, also members of the State Workforce Investment Board.

ii) Said executive committee shall develop legislative and regulatory proposals and identify administrative impediments to the efficient delivery of workforce development programs throughout the commonwealth, including, but not limited to assisting the Governor, or his designee, in preparing the strategic plan for the development of the Massachusetts Workforce Investment System for Massachusetts residents and businesses pursuant to the Workforce Investment Act of 1998. The executive committee shall also carry out such additional responsibilities as the Governor may from time to time require. The executive committee shall consult with the entire Workforce Investment Board in developing such proposals.

(e) The board shall adopt by-laws to govern its proceedings, and shall carry out the responsibilities required of it under the federal Workforce Investment Act of 1998.

(f) The administrative staff of the board shall be supervised by and shall report to the director of workforce development. The board shall contract with said department for personnel services and other operating needs. Notwithstanding any law or special act to the contrary, other departments, agencies, divisions, commissions, boards and bureaus of the commonwealth authorized to provide such information and support as the board may from time to time require in the course of carrying out its responsibilities.

SECTION 572. Section 48 of chapter 31 of the General Laws, as so appearing, is hereby amended by striking out, in lines 19 and 20, the words “office of international trade and investment” and inserting in place thereof the following words:— Massachusetts trade office.

SECTION 573. Section 197B of chapter 111 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out, in lines 25, 28, 49, lines 53 and 54, line 57, lines 72 and 73, and in line 75 the words “and workforce development”.

SECTION 574. Section 1 of chapter 111F, as appearing in the 2000 Official Edition, is hereby amended by striking out the definition of “DOL” and inserting in place thereof the following definition:—“DOL”, the department of labor.

SECTION 575. Section 1 of chapter 149 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the definition of “Commissioner” and inserting in place thereof, the following definition:—“Commissioner”, the director of the department of labor.

SECTION 576. Said section 1 of chapter 149 of the General Laws, as appearing in the 2000 Official Edition, is hereby further amended by striking out the definition of “Department” and inserting in place thereof, the following definition:—“Department”, the department of labor.

SECTION 577. Section 2 of chapter 151 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the definition of “Commissioner” and inserting in place thereof, the following definition:—“Commissioner”, the director of the department of labor.

SECTION 578. Section 2 of chapter 151 of the General Laws, as appearing in the 2000 Official Edition, is hereby amended by striking out the definition of “Department” and inserting in place thereof, the following definition:—“Department”, the department of labor.

SECTION 579. Said chapter 151A of the General Laws, as most recently amended, is hereby further amended by striking the words “division of employment and training” in each instance in which they appear, and inserting in place thereof, in each instance, the following words:— division of unemployment assistance.

SECTION 580. Section 1 of chapter 151A of the General Laws is hereby further amended by striking out paragraph (e ½), as so appearing, and inserting in place thereof the following paragraph:— (e ½) “Commissioner”, the director of the department of labor established pursuant to the provisions of section 1 of chapter 23.

SECTION 581. Said section 1 of chapter 151A is hereby further amended by striking out paragraph (g), as so appearing, and inserting in place thereof the following paragraph:— (g) “Department”, the division of unemployment assistance within the department of labor.

SECTION 582. Section 22 of said chapter 151A, as so appearing, is hereby amended by striking out, in lines 4 and 5, the words “department of employment and training” and inserting in place thereof the following words:— the division of unemployment assistance

SECTION 583. Section 58 of said chapter 151A of the General Laws, as so appearing, is hereby amended by inserting after paragraph (f) the following:— (g) Funds from this account shall be used to support the administration and operation of this chapter, and shall be used to contract with the department of workforce development for space required to maintain walk-in services, including the provision of general information, application assistance, claims information and orientation, under this chapter.

SECTION 584. Section 61 of said Chapter 151A of the General Laws, as so appearing, is hereby amended by striking the second paragraph and inserting in place thereof the following:— For the purpose of maintaining free employment offices, the director of labor is authorized to enter into agreement with the director of workforce development, and shall reimburse the director of workforce development for the cost of providing space in said employment offices for the proper administration of this chapter.

SECTION 585. Section 62A of said Chapter 151A of the General Laws, as so appearing, is hereby amended by striking the words “The division of employment and training shall” and inserting in place thereof, the following:— The division of unemployment assistance shall contract with the department of workforce development to.

SECTION 586. Section 62A of said Chapter 151A, as so appearing, is hereby further amended by striking out subsection (b) and inserting in place thereof, the following subsection:— (b) In addition to such access by telephone to offices of the division, the deputy director shall contract with the department of workforce development to maintain walk-in services, including the provision of general information, application assistance, claims information and orientation.

SECTION 587. Section 71D of said Chapter 151A, as so appearing, is hereby amended by striking out the first sentence and inserting in place thereof the following sentence:— Subject to appropriation, the director of workforce development, in coordination with the secretary and with any other appropriate agency, shall establish a reemployment assistance program to provide counseling, placement, training, and any other services deemed necessary, to employees terminated in plant closings and partial closings which will lead to the reemployment of said employees.

SECTION 588. Section 74 of said chapter 151A, as so appearing, is hereby amended by striking out the words “Employment and Training”, and inserting in place thereof the following words:—“Unemployment Insurance”.

SECTION 589. Notwithstanding any general or special laws to the contrary, wherever in the General Laws the words “division of employment and training” appear, they shall be changed to “division of unemployment assistance”

SECTION 590. Notwithstanding any general or special laws to the contrary, wherever in sections 160 to 168A, inclusive, of chapter 149 of the General Laws the word “commissioner” appear, they shall be changed to “director of workforce development”, “department “ to “department of workforce development”.

SECTION 591. Notwithstanding any general or special law to the contrary, the department of workforce development shall administer the one-stop career centers, so-called, and shall contract with the division of unemployment assistance, to ensure, through all reasonable efforts, the smooth and uninterrupted processing of applications and delivery of benefits.

SECTION 592. Notwithstanding any general or special law to the contrary, the executive committee of the state workforce investment board shall coordinate with the secretary of economic development and the directors of the department of labor and the department of workforce development to develop and submit to the governor and the clerks of the senate and the house of representatives, by June 30, 2004, a comprehensive workforce development plan that shall include, but not be limited to, the following: an assessment of current workforce programs and policies; an assessment of the delivery of employment and training services to persons who face multiple barriers to employment, including youth and disabled and dislocated workers; recommendations for policy, programmatic, and legislative or funding changes.

SECTION 593. (a) Notwithstanding any general or special law to the contrary, the Massachusetts Convention Center Authority shall transfer ownership of the John B. Hynes Veterans Memorial Auditorium, in this section referred to as the “Hynes Auditorium” and the Boston Common Parking Garage, in this section referred to as the “parking garage” and, collectively, “properties” to the Pension Reserves Investment Management, in this section referred to as the “PRIM board” for deposit into the Pension Reserves Investment Trust, in this section referred to as the “PRIT Fund”, in satisfaction of \$145 million of the appropriation required by section 22C of chapter 32 of the General Laws. The remaining value of the properties in excess of that amount shall be used to decrease unfunded pension liability of the PRIT fund.

(b) The parking garage shall be transferred subject to any existing easements acquired pursuant to chapter 606 of the acts of 1958.

(c) The properties shall be available for retention or disposition pursuant to the relevant laws and regulations applicable to the ownership of real estate by the PRIT fund, subject to the following restrictions: (i) the PRIM board shall maintain, at least until December 31, 2006, the Hynes Auditorium as a convention center under the administration and management of the Massachusetts Convention Center Authority; (ii) prior to any disposition of the Hynes Auditorium, the PRIM board shall first solicit proposals from prospective buyers or lessors who shall continue to operate the Hynes Auditorium as a convention center, including proposals that seek to develop secondarily the property, including, but not limited to, subdivision of the existing facility for commercial use and development of space atop the existing facility, subject to applicable state and local laws; (iii) the PRIM board shall not dispose of the Hynes Auditorium for a use other than as a convention center until the board has submitted a report detailing its efforts to solicit proposals set forth in clause (ii) to the secretary of administration and finance and the clerks of the house and senate; and (iv) the PRIM board shall ensure that the parking garage shall continue to operate as a parking garage whether retained, leased or otherwise disposed of by the board.

(d) The treasurer shall take appropriate steps to ensure that any transfer of the properties by the PRIM board shall be subject to any existing bond obligations of the authority or the commonwealth and a portion of the proceeds of any such transfer shall be set aside to satisfy the payment of any outstanding debt obligations on the properties.

(e) The value to be credited for the properties so transferred to the PRIT fund shall be its fair market value as determined by the PRIM board based on an independent appraisal and in accordance with applicable laws.

SECTION 594. The amounts transferred pursuant to section 5B of chapter 29, as amended by this act, shall be made available for the Commonwealth's Pension Liability Fund established under section 22 of chapter 32 of the General Laws. The amounts transferred pursuant to said section 5B of said chapter 29 shall meet the commonwealth's obligations under section 22C of said chapter 32, including retirement benefits payable by the state employees' and the state teachers' retirement systems, for the costs associated with a 3 per cent cost-of-living adjustment pursuant to section 102 of said chapter 32, the reimbursement of local retirement systems for previously authorized cost-of-living adjustments pursuant to section 102 of said chapter 32, and for the costs of increased survivor benefits pursuant to chapter 389 of the acts of 1984. Notwithstanding said section 22C of said chapter 32, the amounts transferred shall be the scheduled amount less amounts satisfied by asset transfers for said purpose as required by this act. Subject to the rules and regulations promulgated by the treasurer, the state retirement board and each city, town, county and district shall verify the cost thereof and the treasurer may make such payments upon a transfer of funds to reimburse certain cities and towns for pensions to retired teachers and including any other obligations which the commonwealth has assumed on behalf of any retirement system other than the state employees' or state teachers' retirement systems and including the commonwealth's share of the amounts to be transferred pursuant to section 22B of said chapter 32 and the amounts to be transferred pursuant to subsection (a) of the last paragraph of section 21 of chapter 138 of the General Laws. All payments for the purposes described in this item shall be made only pursuant to distribution of monies from the fund, and any such distribution and the payments for which distributions are required shall be detailed in a written report filed quarterly by the commissioner of administration with the house and senate committees on ways and means and the joint committee on public service in advance of such distribution. Such distributions shall not be made in advance

of the date on which a payment is actually to be made. The state retirement board may expend an amount for the purposes of the higher education coordinating council's optional retirement program pursuant to section 40 of chapter 15A of the General Laws. To the extent that the amount transferred pursuant to section 5B of said chapter 29 exceeds the amount necessary to adequately fund the annual pension obligations, the excess amount shall be credited to the Pension Reserves Investment Trust Fund of the commonwealth for the purpose of reducing the unfunded pension liability of the commonwealth.

SECTION 595. The legislature shall establish a 19 member special commission to study the ecological and environmental impact of the oil spill in Buzzards Bay by Bouchard barge #120 and to investigate legislative changes to existing laws and regulations to increase safety of commercial barges traveling in state waters. The commission shall also evaluate the potential changes in both civil and criminal laws that may apply to the operation of commercial barges in state waters. Said commission shall consist of 15 legislators, 2 of which shall include the House and Senate chairs of the Natural Resources and Agriculture committees, 5 members appointed by the President of the Senate, and 10 members appointed by the Speaker of the House, including at least one member in each chamber from the minority party; and 4 non-legislator members, 2 appointed by the Governor and 2 appointed by the Attorney General.

Said special commission shall submit its report and recommendation, if any, to the legislature by November 1, 2003.

SECTION 596. There shall be a forensic sciences advisory board to provide recommendations for the implementation of a coordinated approach to forensic science services for the commonwealth. The board shall consist of the president of the Massachusetts District Attorneys Association, the attorney general or his designee, the secretary of public safety or his designee, the secretary of health and human services or his designee, the commissioner of public health or his designee, the chief justice of the Massachusetts superior court or his designee, and 5 experts with academic or professional experience in forensic sciences to be appointed by the governor. The governor shall appoint a member of the board as the chair. The board shall convene no later than August 1, 2003 and issue a report to the joint committee on public safety and the house and senate committees on ways and means including, but not limited to, recommendations on:

- a) improved efficiency in forensic science services, including measures to improve communication and coordination between laboratories and agencies and to reduce duplication of services and resources;
- b) potential public-public and public-private partnerships;
- c) improved accountability and responsiveness of commonwealth's forensic science services; and
- d) potential reorganization of forensic laboratory services in the commonwealth, including consideration of the reorganization of related laboratories and offices under the department of forensic sciences.

The report shall be filed not later than January 1, 2004. The board shall convene quarterly, and shall submit recommendations to the secretary of public safety on an ongoing basis.

SECTION 597. (a) There shall be a special commission to study the energy consumption of the government of the commonwealth. The commission shall specifically review the annual level and cost of energy consumption by executive offices, departments, agencies and divisions of the commonwealth's government over the past 3 fiscal years and shall develop a plan to conserve energy by reducing the government's annual energy consumption rates by at least 10 per cent compared to the average consumption rates over the past 3 fiscal years and by increasing the use of energy efficiency methods. The commission shall also investigate and devise a plan to include renewable energy sources in the government of the commonwealth's energy portfolio. The commission shall hold at least 4 statewide public hearings as part of its review. The commission shall report its findings and any proposed legislation to the clerks of the senate and the house of representatives not later than March 1, 2004. A copy of such report shall also be submitted, by said date, with the secretary of administration and finance, who shall take steps necessary to implement the recommendations of the commission.

(b) The special commission shall consist of 14 members. Eight members shall be appointed by the governor, including the chair of the department of telecommunications and energy, or his designee; the commissioner of energy resources, or his designee; the commissioner of the division of capital asset management and maintenance, or his designee; the secretary of the executive office of administration and finance, or his designee; the secretary of the department of transportation, or his designee; the president of the University of Massachusetts or his designee; the superintendent of state office buildings or his designee; and a representative from the Massachusetts Technology Park Collaborative. Three members shall be appointed by the senate president, including the senate chair of the joint committee on energy and the senate minority leader or his designee; a representative from the International Brotherhood of Electrical Workers; and a representative from an organization that addresses energy conservation issues. Three members shall be appointed by the speaker of the house of representatives, including the house chair of the joint committee on energy and the house minority leader or his designee; a representative from the National Association of Government Employees; and a representative from an organization that addresses energy conservation issues.

SECTION 598. There is hereby established a commission to study the advisability of transferring other state agencies or laboratories into the department of forensic sciences. The committee shall further make recommendations on the management structure of the department of forensic sciences and on the division and coordination of responsibilities within the department among the office of the chief medical examiner, the state police crime laboratory and any other state agencies or laboratories that the committee recommends be included in the department. The members of the commission shall be the attorney general or his designee, the secretary of public safety or his designee, the commissioner of public health or his designee, the chief justice of the superior court or his designee, the colonel of the state police or his designee, two representatives of the Massachusetts District Attorneys Association, a representative of the Massachusetts bar association who is engaged in the practice of criminal defense and a representative of the Massachusetts Police Chiefs Association. The commission shall submit a report of its findings and recommendations on the management structure of the department of forensic sciences and on the advisability of transferring other state agencies or laboratories into the department of forensic sciences to the governor, the chairs of the joint committee on criminal justice and the chairs of the house and senate committees on ways and means not later than July 1, 2004.

SECTION 599. There shall be a special commission called the Commission on Transportation Restructuring to study the administration of the highway system in the commonwealth. The members of the commission shall include the secretary of the executive office of transportation and construction or his designee, who shall be the chairperson of the commission; the commissioner

of the Massachusetts highways department or his designee; the chairperson of the Massachusetts Turnpike Authority or his designee; the chair of the commonwealth development coordinating council; the commissioner of the department of conservation and recreation in the executive office of environmental affairs or his designee; 2 members appointed by the speaker of the house of representatives, 1 of whom shall be the House chair of the joint committee on transportation; 1 member appointed by the minority leader of the house; 2 members appointed by the senate president, 1 of whom shall be the Senate chair of the joint committee on transportation; 1 member appointed by the minority leader of the senate; and 4 members appointed by the governor, 1 of whom shall be a representative of the construction trades, 1 of whom shall come from a list of 3 candidates submitted by the Massachusetts Business Roundtable and 1 of whom shall represent an environmental advocacy organization. The commission shall consider various reforms designed to achieve more efficient administration of the highway system including, but not limited to: 1) the abolition of the board and commissioner structure of the Massachusetts highways department; 2) allocating maintenance responsibilities for Massachusetts boulevards and parkways; 3) the appropriate composition and power of the board of the Massachusetts Turnpike Authority; 4) the efficacy of interagency service agreements for the maintenance of Massachusetts highways; and 5) the establishment of a single state agency responsible for highway administration. The commission shall also report on the results of the project for the maintenance of highways in central and western Massachusetts initiated in sections 240, 241 and 574. The commission shall submit a report summarizing its findings and recommendations, including recommendations for legislative action, to the secretary of administration and finance, the joint committee on transportation and the house and senate committees on ways and means not later than December 15, 2003.

SECTION 600. The board of higher education shall establish a commission to research, assess, and make recommendations regarding the health, vitality, and future direction of the state college system not later than September 1, 2003. The commission shall be composed of individuals drawn from the fields of higher education, government and business. The commission shall file its findings and report with the joint committee on education, arts, and humanities by March 30, 2004. Such individuals should represent state, regional, national perspectives on the challenges facing higher education and should be recognized for their achievement in their various fields.

SECTION 601. There shall be a special commission for the purpose of making an investigation and study of the subject matter of Section 208 entitled "Quinn Bill Reform." The commission shall consist of the house chair and the senate chair of the joint committee on public safety, 2 members joint committee on public service, 2 members of the joint committee on education, one member of the senate committee on ways & means, and 1 member of the house committee on ways & means. The special commission shall investigate and study: i) the financial impact of Quinn Bill reform upon the cities and towns; ii) the impact of collective bargaining agreements upon the Quinn Bill reform, including compiling an inventory of collective bargaining agreements; iii) the impact on the program of the changes in rules for educational institutions initiated by the board of higher education; and iv) the impact of Quinn Bill reform upon minority police officers. The resources and assistance of the following commonwealth departments shall be made available to the commission to assist in conducting its investigation and study: i) the department of revenue, department of local mandates; ii) the joint labor management committee; iii) the board of higher education; and iv) the commission against discrimination. The special commission shall complete its investigation and study by October 31, 2003.

SECTION 602. (a) The general court hereby finds that: (1) the commonwealth has a moral obligation to make whole innocent persons wrongly convicted of crimes; (2) innocent persons who have been wrongly convicted of crimes and subsequently imprisoned have difficulty achieving legal redress because of a variety of substantive and technical obstacles in state law; (3) these innocent persons should have an available remedy from the commonwealth, whose official criminal justice apparatus has seriously failed when an innocent person is convicted and incarcerated; and (4) the law should permit a person who has already obtained relief from a wrongful conviction and who demonstrates that he is innocent to make a claim against the commonwealth. (b) There shall be a special commission charged with determining appropriate compensation for the wrongfully convicted by taking into account years incarcerated, severity and circumstances of incarceration, and any and all other factors the commission deems appropriate and relevant to how the commonwealth can compensate the wrongfully convicted. (c) The commission shall consist of 1 member of the senate appointed by the president of the senate; 1 member of the house of representatives appointed by the speaker of the house of representatives; the attorney general, or his designee; the chief justice of the supreme judicial court, or his designee; a member of the criminal defense bar appointed by the Massachusetts Bar Association; the secretary of public safety, or his designee; and the chairman of the parole board, or his designee. (d) The commission shall file a report of its findings and recommendations and legislation with the house and senate clerks no later than December 31, 2003.

SECTION 603. There shall be a commission to investigate and study public employee compensation, including, but not limited to the, health insurance, dental insurance, life insurance, education assistance, disability insurance, voluntary savings programs, and retirement benefits. The study shall include, but not be limited to, an analysis and comparison of public employee compensation in Massachusetts, including member contribution rates, eligibility, vesting, and portability, to other public and private employee compensation plans. The commission shall consist of 15 members as follows: the house and senate chairmen of the joint committee on public service, who shall serve as co-chairs of the commission; 1 member of the senate appointed by the senate president and 1 member of the house appointed by the speaker of the house, or their designees, the secretary of administration and finance, or his designee; the executive director of the group insurance commission, or his designee; a representative of the Massachusetts Municipal Association; the chairman of the Public Employee Retirement Administration Commission, or his designee; a representative of the Associated Industries of Massachusetts, a representative of the Massachusetts Taxpayers Foundation, representative of the Massachusetts Association of Contributory Retirement Systems; the chairman of the state retirement, or his designee and chairman of the state teachers' retirement board or his designees; a representative of the Massachusetts Teachers' Association, and a representative of the American Federation of State, County, and Municipal Employees. The commission shall report to the general court the results of its study together with its recommendations and draft of legislation necessary to carry such recommendations into effect by filing the same with the clerk of the house of representatives, the joint committee on public service and the house and senate committees on ways and means on or before April 1, 2004.

SECTION 604. There is hereby established a special commission to report on alternatives to using the property tax to fund public education. Said commission shall consist of the Speaker of the House of Representatives or his designee and 3 additional members to be appointed by the Speaker of the House, the President of the Massachusetts Senate or his designee and 3 additional members to be appointed by the President of the Senate, the Chairman of the House Committee on Ways and Means or his designee, the Chairman of the Senate Committee on Ways and Means or his designee, the House and Senate Chairs of the Joint Committee on Education, Arts, and Humanities, the House and Senate Chairs of the Joint Committee on Taxation, who shall both serve as chairs of said commission, the Secretary of Administration and Finance, and 1 member appointed by the following organizations: the Department of Revenue, the Suburban Coalition, the Massachusetts Taxpayer's Foundation, the Massachusetts Municipal Association, Associated Industries of Massachusetts, and the and the Massachusetts Budget and Policy Center. Said commission shall be chaired by the House and Senate Chairs of the Joint Committee on Taxation. The scope of the commission's inquiry shall include, but shall not be limited to: reviewing the current practice of using the property tax to fund education and seeking alternative sources of funding to provide a dedicated stream of revenue. The Commission shall submit its report to the House and Senate Committee on Ways and Means, the Joint Committee on Education, Arts and Humanities, and the Joint Committee on Taxation not later than January 30, 2004 along with drafts of any legislation.

SECTION 605. The division of urban parks and recreation is authorized and directed to prepare an application to place the former metropolitan parks system on the National Register of Historic Sites.

SECTION 606. There shall be a special commission to study issues related to charter school finance and charter school tuition, and to investigate alternative funding formulas and funding sources. The commission shall be chaired by the house and senate chairs of the joint committee on education, arts, and humanities, and shall be composed of two senators appointed by the senate president, two representatives appointed by the speaker of the house, one senator appointed by the senate minority leader, and one representative appointed by the house minority leader. The commission shall study charter school finances and make recommendations for setting an equitable formula that considers the actual cost per student, the variation in cost for different grade levels and different programs, the advisability of establishing a maximum amount for said average cost, and the impact of new charter schools on existing charter schools, other public schools in the district, and new charter schools. In carrying out its investigation, the commission shall take testimony from the public and interested organizations, including but not limited to, the Massachusetts Association of School Committees, the Massachusetts Association of School Superintendents, the Massachusetts Municipal Association, the Massachusetts Teachers Association, the Massachusetts Federation of Teachers, and the Massachusetts Charter School Association. The commission shall file a report with the house and senate clerks, the house and senate committees on ways and means, the speaker of the house, and the president of the senate not later than February 1, 2004, along with any legislation necessary to carry its recommendations into effect.

SECTION 607. There shall be a house and senate working group to develop legislation to reform chapter 70 of the General Laws. The working group shall be made up of the president of the senate or his designee, the speaker of the house or his designee, the senate and house chairs of the joint committee on education, arts, and humanities, the chairs of the senate and house committees on ways and means and the minority leaders of the senate and house, or their designees. The working group shall address matters including but not limited to aid and required local contributions determined under chapter 70 and shall consider how best to allocate state funds equitably to cities, towns, and regional school districts. The working groups shall consider the appropriate balance of property value and income measures in setting local spending requirements, and shall recommend ways to reduce arbitrary discrepancies in required local contributions and state aid levels of similar districts. The working group shall draw on the expertise of interested parties including but not limited to representatives of the department of education and organizations representing educators, school administrators, and local officials. The working group shall submit recommended legislation to the joint committee on education, arts, and humanities on or before October 9, 2003.

SECTION 608. (a) There shall be a council on early education and care to support accessible, affordable, quality child care and education for children ages birth through age 5 in the commonwealth. The council shall consist of the commissioner of the office of child care services, the commissioner of education, and the commissioner of public health.

(b) The council shall evaluate the policies and process guiding the expenditure of funds from items 7030-1000 and 7030-1500.

(c) The council shall draw on the expertise of representatives of business and industry, higher education, educators, labor unions, parents, and providers of early education and care services. The council shall develop a comprehensive plan to coordinate, integrate, and streamline publicly funded early education and care administration and functions. The comprehensive plan shall make recommendations to: (1) coordinate resources and public funding streams for early education and care, including but not limited to funding administered by the office of child care services, the department of education, and the department of public health in order to improve educational quality of services, to assure input at the local level on decision-making, to avoid duplication of effort, and to provide flexible services that meet the diverse needs of children and families; (2) increase regulatory, funding and administrative alignment, including, but not limited to streamlining administrative paperwork, building consistency in policies among publicly funded agencies, and developing appropriate subsidy eligibility criteria, sliding-fee scales, reimbursement rates, services, regulations, and standards of quality; (3) strengthen consumer education relative to early education and care resources; (4) create an effective data collection system to support the necessary functions of a consolidated system of early care to enable accurate evaluation of its impact and to maximize utilization of available federal funding; (5) establish the appropriate balance between funding for direct provision of service, for quality enhancement, and for administration; and (6) ensure the creation of a workforce system to support the education, training and compensation of the early education and care workforce, including all center and family-based infant, toddler, preschool and school-age providers. In developing its recommendations, the council shall evaluate the current systems of child care and early education delivery in terms of administrative costs, quality of care, quality of education, training and education of early education and care providers, expenditure tracking accountability, and local control. The council shall evaluate the advisability of creating a board of early education and care with oversight of some part or all of publicly funded early education and care in the commonwealth.

(d) The council shall submit its report and recommendations to the secretary of administration and finance, the house and senate committees on ways and means, the joint committee on education, arts and humanities, and the joint committee on human services and elderly affairs not later than February 15, 2004.



SECTION 609. On or before September 1, 2003, the department of public health Lemuel Shattuck hospital shall submit a report to the house and senate committee on ways and means detailing the current billing procedure and rate used to determine the expenses charged to county sheriffs by said hospital for medical services provided to inmates of county correctional facilities by said hospital, the prior billing procedure and rate used by said hospital to determine said expenses during fiscal years FY97 through FY02, and an explanation of the differences, if any, between the current and prior billing procedure and rate used by said hospital. Said report shall include, but not be limited to, the following: (1) information relative to whether said county sheriffs are currently charged using an 'all-inclusive flat fee' rate or an individual 'fee for service' rate by said hospital, (2) whether said sheriffs were previously charged, during fiscal years FY97 through FY02, using an 'all-inclusive flat fee' rate or an individual 'fee for service' rate by said hospital, (3) information regarding the current and prior level of interaction and participation afforded to said county sheriffs by the administration of said hospital in determining the rate at is so charged and the level of medical care that is required to continue billing at certain rates for said inmates, (4) information regarding the current and prior level of interaction and participation afforded to health maintenance organizations that have been retained by the department of correction to provide health insurance coverage for state inmates in determining the rate that the department is charged for medical services provided to state inmates and the level of medical care that is required to continue billing at certain rates for said inmates, (5) the current billing procedure and rate used by said hospital to determine the expenses charged to said health maintenance organizations covering state inmates including whether said organizations are currently charged using an 'all-inclusive flat fee' rate or an individual 'fee for service' rate by said hospital, (6) information regarding whether the billing procedure and rate used to charge said county sheriffs is uniformly applied to all county sheriffs, and (7) information detailing the percentage of actual expenses born by said hospital for the provision of said medical services that is covered by funds appropriated within line item 8910-0010 of section 2 of this act and the percentage of actual expenses for said medical services that is covered by direct payments made to the Lemuel Shattuck hospital by the county sheriffs for fiscal years 1997 through 2002, inclusive.

SECTION 610. (a) Upon the request of the board of selectmen in a town, the city council in a plan E city or the mayor in any other city, the department of revenue may recalculate the minimum required local contribution, as defined in section 2 of chapter 70 of the General Laws, in the fiscal year ending June 30, 2004. Based on the criteria in this section, the department shall recalculate the minimum required local contribution for a municipality's local and regional schools and shall certify the amounts calculated to the department of education.

(b) A city or town that used qualifying revenue amounts in a fiscal year which shall not be available for use in the next fiscal year or that shall be required to use revenues for extraordinary nonschool-related expenses for which it did not have to use revenues in the preceding fiscal year or that has an excessive certified municipal revenue growth factor which is also greater than or equal to 2.5 times the state average municipal revenue growth factor may appeal to the department of revenue not later than October 1, 2003 for an adjustment of its minimum required local contribution and net school spending.

(c) If a claim is determined to be valid, the department of revenue may reduce proportionately the minimum required local contribution amount based on the amount of shortfall in revenue or based on the amount of increase in extraordinary expenditures in the current fiscal year, but no adjustment to the minimum required local contribution on account of an extraordinary expense in the budget for the fiscal year ending on June 30, 2004 shall affect the calculation of the minimum required local contribution in subsequent fiscal years. Qualifying revenue amounts shall include, but not be limited to, extraordinary amounts of free cash, overlay surplus and other available funds.

(d) If, upon submission of adequate documentation, the department of revenue determines that the municipality's claim regarding an excessive municipal revenue growth factor is valid, said department shall recalculate the municipal revenue growth factor and the department of education shall use the revised growth factor to calculate the preliminary local contribution, the minimum required local contribution and any other factor that directly or indirectly uses the municipal revenue growth factor. Any relief granted as a result of an excessive municipal revenue growth factor shall be a permanent reduction in the minimum required local contribution.

(e) Upon the request of the board of selectmen in a town, the city council in a plan E city or the mayor in any other city, in a majority of the member municipalities, a regional school district which used qualifying revenue amounts in a fiscal year that shall not be available for use in the next fiscal year shall appeal to the department of revenue not later than October 1, 2003 for an adjustment to its net school spending requirement. If the claim is determined to be valid, the department of revenue shall reduce the net school spending requirement based on the amount of the shortfall in revenue and reduce the minimum required local contribution of member municipalities accordingly. Qualifying revenue amounts shall include, but not be limited to, extraordinary amounts of excess and deficiency, surplus and uncommitted reserves.

(f) A regional school district which received regional school incentive aid in fiscal year 1995 shall, upon the request of the board of selectmen in a town, the city council in a Plan E city or the mayor in any other city, in a majority of the member municipalities, appeal to the department of education for an adjustment in the minimum required local contribution of its member municipalities. The department of education may reduce the increased assessment of the member municipalities as a result of the reorganization of the regional school district by using a portion of the regional incentive aid to reduce the prior year local contribution.

(g) If the regional school budget has already been adopted by two-thirds of the member municipalities then, upon a majority vote of the member municipalities, the regional school committee shall adjust the assessments of the member municipalities in accordance with the reduction in minimum required local contributions approved by the department of revenue or the department of education in accordance with this section.

(h) Notwithstanding clause (14) of section 3 of chapter 214 of the General Laws or any other general or special law to the contrary, the amounts so determined shall be deemed to be the minimum required local contribution described in chapter 70 of the General Laws. The house and senate committees on ways and means and the joint committee on education, arts and humanities shall be notified by the department of revenue and the department of education of the amount of any reduction in the minimum required local contribution amount.

(i) If a city or town has an approved budget that exceeds the recalculated minimum required local contribution and net school spending amounts for its local school system or its recalculated minimum required local contribution to its regional school districts as provided by this section, the local appropriating authority shall determine the extent to which the community shall avail itself of any relief authorized under this section.

(j) The amount of financial assistance due from the commonwealth in fiscal year 2004 under said chapter 70 or any other law shall not be changed on account of any redetermination of the minimum required local contribution under this section.

(k) The department of revenue and the department of education shall issue guidelines for their respective duties under this section.

SECTION 611. The board of higher education shall evaluate the tuition and fees, mandatory and non-mandatory, charged for attendance at each institution of public higher education. The evaluation shall take into consideration the cost of education at each institution, which shall be defined as the total level of state and student supported education and general expenditures less auxiliary enterprises, state restricted grants and contracts, and debt service for fiscal year 2003, in order to determine the amount of tuition and fees that students are charged at each institution to meet the student share of the cost of education in fiscal year 2003; and the amount of fees that students are charged for costs not included in the cost of education, in fiscal year 2003; provided, however, that the board is not precluded from comparing said costs and amounts to costs incurred or charged in other fiscal years.

The board shall use such information to evaluate and make recommendations on (1) the advisability of redefining fees as a non-mandatory source of student payment charged by an institution for participation in campus activities and for the purchase of specific non-obligatory services; (2) appropriate policies for setting tuition levels; (3) appropriate policies for funding tuition waivers; and (4) how best to adjust state appropriations in order to account for fringe benefit costs of campus employees paid from tuition retained at public institutions of higher education in a manner which makes campus tuition retention revenue neutral to the state. The board shall review the implementation of section 630 of this act and make recommendations on whether to alter, continue or expand tuition retention.

Said evaluation and recommendations shall be reported to the house and senate committees on ways and means and the joint committee on education, arts and humanities on an interim basis no later than December 15, 2003 and with final recommendations no later than December 15, 2004.

SECTION 612. The secretary of administration and finance shall file quarterly reports identifying with particularity all cost savings that result from greater efficiency or the reduction of wasteful expenditures in the executive branch during said quarter, beginning on October 1, 2003. The reports shall include, but not be limited to: (a) a list of employee positions eliminated, whether by attrition or termination, showing for each the salary, job title, and state agency; and (b) a list of real property leases terminated or renegotiated by the commonwealth or any agency or department, showing for each the address of the real property, the state agencies relocated or otherwise affected, and the amount of the savings realized. The secretary shall file the reports with the house and senate committees on ways and means not later than October 1, 2003, and January 1, April 1 and July 1, 2004.

SECTION 613. The office of elder services, in consultation with the division of medical assistance and the division of insurance shall develop a program of public education designed to inform elders of their options for long-term health care coverage and the consequences of transferring assets for less than fair market value prior to entering a nursing home. The program shall include information about Medicare coverage, MassHealth coverage, long-term care insurance and options for community-based long-term care. The office shall submit a report to the house and senate committees on ways and means not later than February 1, 2004 on the progress of the development of the program and details on its implementation.

SECTION 614. (A) Notwithstanding any special or general law to the contrary, the prescription drug insurance program authorized by section 39 of chapter 19A of the General Laws and funded in item 9110-1455 of this act will incorporate the following program guidelines in fiscal year 2004:

i) Enrollment: There will be an open enrollment period, lasting not less than 1 month and not more than 2 months, that will begin no later than August 1, 2003. A person will also be eligible to enroll in the program at any time within a year of reaching age 65.

ii) Out-of-Pocket Spending Limit: The program shall pay the costs of all prescription drugs for a single enrollee whose out-of-pocket expenditures on prescription drugs exceeds the lesser of (a) 10 per cent of such enrollee's gross annual household income; or (b) \$2,000 in out-of-pocket expenditures made by an enrollee for co-payments and deductibles in the current fiscal year. The program shall pay the costs of all prescription drugs for a married enrollee whose out-of-pocket expenditures on prescription drugs exceeds the lesser of (a) 10 per cent of such enrollee's gross annual household income; or (b) \$3,000 in out-of-pocket expenditures made by an enrollee for co-payments and deductibles in the current fiscal year.

iii) Deductible: There will be no deductible charged to enrollees with income below 188% of the federal poverty level.

iv) Co-payments: Retail co-payments for a 30 day supply for enrollees below 188% of the federal poverty level will be \$9 for generic, level 1 drugs; \$23 for brand, level 2 drugs; and \$45 for additional brand, level 3 drugs. Mail service co-payments for a 90 day supply for enrollees below 188% of the federal poverty level will be \$18 for generic, level 1 drugs; \$46 for brand, level 2 drugs; and \$80 for additional brand, level 3 drugs.

(B) Notwithstanding any special or general law to the contrary, the prescription drug insurance program authorized by section 39 of chapter 19A of the General Laws and funded in item 9110-1455 shall not incur costs to the commonwealth that exceed the appropriation authorized in this act in fiscal year 2004. The office of elder services shall report to the house and senate committees on ways and means quarterly on program expenditures and shall update spending projections upon submission of said reports. If the program is projected to exceed the appropriation contained in item 9110-1455 of this act at any point in the fiscal year, the office shall take steps to control the costs of the program during fiscal year 2004. Steps that may be taken shall include, but are not limited to:

i) Enrollment: The open enrollment period shall be limited to 1 month and a person will no longer be eligible to enroll in the program at any time within a year of reaching age 65.

ii) Out-of-Pocket Spending Limit: The program shall pay the costs of all prescription drugs for a single enrollee whose out-of-pocket expenditures on prescription drugs exceeds the greater of (a) 10 per cent of such enrollee's gross annual household income; or (b) \$3,000 in out-of-pocket expenditures made by an enrollee for co-payments and deductibles in the current fiscal year. The program shall pay the costs of all prescription drugs for a married enrollee whose out-of-pocket expenditures on prescription drugs exceeds the greater of (a) 10 per cent of such enrollee's gross annual household income; or (b) \$6,000 in out-of-pocket expenditures made by an enrollee for co-payments and deductibles in the current fiscal year.

iii) Deductible: There will be quarterly deductibles in the amount of \$12 charged to enrollees with income below 188% of the federal poverty level, \$30 to enrollees with income between 188 and 225% of the federal poverty level, \$60 to enrollees with income between 225 and 300% of the federal poverty level, \$120 to enrollees with income between 300 and 500% of the federal poverty level, and \$150 to enrollees with income above 500% of the federal poverty level.

iv) Premiums: There will be premiums in the amount of \$5 charged to enrollees with income below 188% of the federal poverty level, \$10 to enrollees with income between 188 and 225% of the federal poverty level, \$15 to enrollees with income between 225 and 300% of the federal poverty level, \$30 to enrollees with income between 300 and 400% of the federal poverty level, \$40 to enrollees with income between 400 and 500% of the federal poverty level, and \$50 to enrollees with income above 500% of the federal poverty level.

v) Co-payments: Retail co-payments for a 30 day supply for enrollees below 188% of the federal poverty level will be \$9 for generic, level 1 drugs; \$23 for brand, level 2 drugs; and \$45 for additional brand, level 3 drugs. Mail service co-payments for a 90 day supply for enrollees below 188% of the federal poverty level will be \$18 for generic, level 1 drugs; \$46 for brand, level 2 drugs; and \$80 for additional brand, level 3 drugs.

vi) Eligibility: The income eligibility for disabled individuals shall be lowered to 133% of the federal poverty level.

vii) Any other alternative changes to enrollment, out-of-pocket spending limits, deductibles, premiums, co-payments, or eligibility that would be sufficient to keep projected spending within the appropriation provided in item 9110-1455 of this act.

If the office of elder services determines that some or all of these options are not sufficient, or should not be pursued, for the purposes of insuring that spending stays within the appropriation for the program, the office shall report to the house and senate committees on ways and means stating this determination, the reasons for this determination, and the alternative options that will be implemented to insure that spending for the prescription drug insurance program does not exceed the appropriation authorized within item 9110-1455 of this act.

(C) The office of elder services shall report to the house and senate committees on ways and means no later than December 1, 2003 on proposals to contain the future-year costs of the prescription drug insurance program authorized by section 39 of chapter 19A of the General Laws. This report shall evaluate, but shall not be limited to an evaluation of: tying annual co-pay and premium increases to the annual increase in prescription drug costs or to some fixed annual percentage increase, and increasing the co-pays, premiums and deductibles of enrollees between 225% and 500% of the federal poverty level so that the net cost of these enrollees to the program is zero. This evaluation shall include a consideration of both the fiscal savings that would accrue to the program and the severity of the financial burden that would be felt by enrollees in each income bracket through the implementation of these changes. This report shall also include a plan, including prospects for coordination with outside parties, for increasing the number of enrollees in the program with incomes above 500% of the federal poverty level in order to help subsidize the costs of the program for low-income enrollees.

SECTION 615. Notwithstanding any general or special law to the contrary, the formula provided in section 35J of chapter 10 of the General Laws shall not apply in fiscal year 2004.

SECTION 616. (a) Notwithstanding chapter 32 of the General Laws or any other general or special law to the contrary, the state board of retirement, established under section 18 of chapter 10 of the General Laws, shall establish and implement a retirement incentive for public employees, hereinafter referred to as the retirement incentive program, in accordance with this section. In order to be deemed eligible by the board for any of the benefit options under the retirement incentive program, an employee: (i) shall be an employee of the commonwealth on the effective date of this act; (ii) shall be a member in active service of the state retirement system on the effective date of this act; (iii) shall be classified in Group 1 of said retirement system in accordance with clause (g) of subdivision (2) of section 3 of said chapter 32; (iv) shall be eligible to receive a superannuation retirement allowance in accordance with subdivision (1) of section 5 of said chapter 32 or subdivision (1) of section 10 of said chapter 32 upon the date of retirement requested in his written application for retirement with the board; (v) shall have received his pay advices via the commonwealth's human resources compensation management system or the University of Massachusetts' human resources management information system or whose regular compensation is funded from federal, trust or capital accounts, pursuant to chapter 29 of the General Laws; and (vi) shall have filed a written application with the board in accordance with subsection (b).

The application filed for retirement under this act may be delivered in person or by mail to the state board of retirement. No employee shall be eligible for more than 1 of the incentives offered in this act and no employee may become eligible for 1 incentive by virtue of the application of a different incentive.

Words used in this act shall have the same meaning as when they are used in said chapter 32 unless otherwise expressly provided or unless the context clearly requires otherwise. An employee who retires and receives an additional benefit in accordance with this act shall be deemed to be retired for superannuation under said chapter 32 and shall be subject to all of said chapter 32.

Elected officials and anyone serving as a chief justice or an associate justice of the supreme judicial court, a chief justice or an associate justice of the appeals court, or a justice of the trial court shall not be eligible to participate in the retirement incentive program.

(b) Notwithstanding section 5 of chapter 32 of the General Laws that requires a retirement date within 4 months of the filing of an application for superannuation retirement, in order to receive the retirement benefit provided by this act, an eligible employee, except as otherwise provided in this section, shall file his application for retirement with the state board of retirement after July 15, 2003 and not later than September 1, 2003. The retirement date requested shall be October 1, 2003, except for employees of the state board of retirement for whom the retirement date requested shall be November 1, 2003.

To ensure the successful completion of the academic year, employees of the University of Massachusetts and employees of state and community colleges shall file their applications for retirement within the period required in this section, but the retirement date requested shall be December 31, 2003. The president of the University of Massachusetts and the chancellor of higher education may

identify job titles which may elect to retire earlier than December 31, 2003. Said president and said chancellor shall each file a complete list of titles and corresponding job title codes with the state board of retirement not later than January 15, 2003, but no retirement shall be effective earlier than August 29, 2003.

(c) An employee who is eligible for the retirement incentive program may request in his application for retirement that the state board of retirement credit him with an additional retirement benefit in accordance with this section. Each such employee shall request and receive a combination of years of creditable service and years of age, in full year increments, the sum of which shall not be greater than 5 years, for the purposes of determining his superannuation retirement allowance pursuant to paragraph (a) of subdivision (2) of section 5 of chapter 32 of the General Laws.

Notwithstanding the credit, the total normal yearly amount of the retirement allowance, as determined in accordance with said section 5 of said chapter 32, of any employee who retires and receives the retirement incentive program benefit shall not exceed 80 per cent of the average annual rate of his regular compensation as determined in accordance with said section 5 of said chapter 32.

(d) For a married employee who retires and receives an additional benefit under this act, an election of a retirement option under section 12 of chapter 32 of the General Laws shall not be valid unless (i) it is accompanied by the signature of the member's spouse indicating the member's spouse's knowledge and understanding of the retirement option selected; or (ii) a certification by the state board of retirement that the spouse has received notice of such election as provided in this section. If a member who is married files an election which is not signed by the spouse, the state board of retirement shall notify the member's spouse within 15 days by registered mail of the option election and the election shall not take effect until 30 days after the date on which the notification was sent, any such election may be changed by the member at any time within 30 days or at any other time permitted under said chapter 32. Nothing in this section shall affect the effective date of any retirement allowance but, in the event of any election having been filed which is not so accompanied, the payment of any allowance so elected shall not be commenced earlier than 30 days after the state board of retirement sends the required notice.

(e) The state board of retirement shall provide retirement counseling to employees who choose to consider retiring or who choose to retire under the retirement incentive program. Such counseling shall include, but not be limited to, the following: (i) a full explanation of the retirement benefits provided by this act; (ii) a comparison of the expected lifetime retirement benefits payable to an employee under the retirement incentive program and under the existing chapter 32 of the General Laws; (iii) the election of a retirement option under section 12 of said chapter 32; (iv) the restrictions on employment after retirement; (v) the laws relative to the payment of cost-of-living adjustments to the retirement allowance; and (vi) the effect of federal and state taxation on retirement income. The group insurance commission shall provide counseling about the provision of health care benefits under chapter 32A of the General Laws. Each such employee shall sign a statement that he has received the counseling or that he does not want to receive the counseling prior to the approval by the state board of retirement of such employee's application for superannuation benefits and the additional benefit provided by this act.

Pursuant to section 98 of said chapter 32, the state treasurer may make advance payments in an amount not to exceed any retirement allowance actually due to an employee who is eligible for and who has filed an application for retirement under the retirement incentive program and who does not receive a retirement allowance within 60 days after submitting a retirement application, during such period as is necessary for the processing of the application for retirement. Notwithstanding any special or general law to the contrary, the state board of retirement may employ retired former employees of said board through December 31, 2004, to assist it in the implementation of the retirement incentive program authorized by this section, and in the administration of tasks related thereto.

(f) The secretary of administration and finance may fill an executive branch position vacated as a result of an applicant's participation in the retirement incentive program if the secretary determines that the position is vital to the public health, public safety or other critical operations of the commonwealth. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the executive branch shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the executive branch pursuant to the retirement incentive program had such positions not been vacated; provided, further, that the total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the executive branch shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the executive branch pursuant to the retirement incentive program had such positions not been vacated.

The refilling of positions vacated by employees from federal and trust accounts pursuant to retirement incentive program shall not be subject to the limitations set forth in the retirement incentive program; provided further, that agencies with positions vacated from federal and trust accounts shall first fill such positions with qualified persons currently employed by the commonwealth and paid with state funds; provided, however, that if no such qualified personnel are currently employed by the commonwealth, agencies may hire new employees to backfill such positions vacated from federal and trust accounts.

(g) Notwithstanding any general or special law to the contrary, no person shall be hired or appointed by the trial court on a permanent or temporary basis to fill a position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after October 1, 2003 until June 30, 2005. If the chief justice for administration and management determines that a position is critical and essential to the operations of or services provided by the commonwealth, such chief justice shall include such position in a schedule which shall include: (i) the classification title of each position; (ii) the item of appropriation in which the position is funded; (iii) the number of positions listed in the schedule with the title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of October 1, 2003 to June 30, 2005, inclusive, that it is determined that the position shall be filled. Said chief justice for administration and management shall prepare 1 or more supplementary schedules in the same form if the chief justice shall determine that a supplementary schedule shall be necessary. The

schedule shall be filed with the house and senate committees on ways and means and the positions may be filled before June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with the committees. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the trial court shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the trial court pursuant to the judiciary retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the trial court shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the trial court pursuant to the judiciary retirement incentive program had such positions not been vacated.

(h) The comptroller, in conjunction with the state board of retirement, shall certify to the house and senate committees on ways and means by November 1, 2003 the total value of compensation of the last pay period prior to October 1, 2003, by line item, of each individual that has enrolled in the retirement incentive program.

(i) Notwithstanding any general or special law to the contrary, no person shall be hired by a state agency, as defined in section 1 of chapter 6A of the General Laws, on a permanent or temporary basis to fill any position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after October 1, 2003 until June 30, 2005. If the secretary of administration and finance determines that a position is critical and essential to the operations of 1 or more services provided by the commonwealth, said secretary shall include the position in a schedule which shall include: (i) the classification title of each position; (ii) the item of appropriation in which the position is funded; (iii) the number of positions listed in the schedule with such title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of October 1, 2001 to June 30, 2005, inclusive, that said secretary shall have determined that the position shall be filled. The secretary shall prepare 1 or more supplementary schedules in the same form if he shall determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and said secretary may fill any such positions before June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with said committees. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in state agencies shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in state agencies pursuant to the retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in state agencies shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in state agencies pursuant to the retirement incentive program had such positions not been vacated.

The comptroller shall authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials for position titles on file pursuant to subsection (j).

(j) The secretary of administration and finance shall list each position made vacant by the retirement of an employee from a state agency, as defined in section 1 of chapter 6A of the General Laws, receiving an additional benefit in accordance with this act and shall file such list with the house and senate committees on ways and means and the comptroller not later than October 15, 2003 and shall supplement the list as may be deemed necessary through June 30, 2005. For each such position, the list shall include the item of appropriation in which the position is funded, the name of the state agency, as defined in said section 1 of said chapter 6A, which is funded by such item, the classification title of the position, the salary range for the title and the salary payable to the person who retired from the position. The list and any supplements shall indicate which of these positions were refilled, the date on which they were refilled and the annual salary of each refilled position.

(k) Notwithstanding any general or special law to the contrary, no person shall be hired by a state or community college in the system of public institutions of higher education, as defined in section 5 of chapter 15A of the General Laws, but excluding the University of Massachusetts at Amherst, Boston, Dartmouth, Lowell and Worcester, on a permanent or temporary basis to fill any position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after October 1, 2003 until June 30, 2005. If it is determined that a position is critical and essential to the operations of 1 or more services provided by the commonwealth, the board of higher education shall include the position in a schedule which shall include: (i) the classification title of each position; (ii) the item of appropriation in which the position is funded; (iii) the number of positions listed in the schedule with the title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of October 1, 2003 to June 30, 2005, inclusive, that it is determined that the position shall be filled. Said board shall prepare 1 or more supplementary schedules in the same form if said board shall determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and the positions may be filled before June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with said committees. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the state and community colleges shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the state and community colleges pursuant to the retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the state and community colleges shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the state and community colleges pursuant to the retirement incentive program had such positions not been vacated.

The board of higher education shall not create a position title or similar position title within the same item of appropriation as those contained in the list filed pursuant to section (l) of this act, before June 30, 2005.

The comptroller shall authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials for position titles on file pursuant to subsection (l).

(l) The board of higher education shall list each position made vacant by the retirement of an employee of a state or community college in the system of public institutions of higher education, as defined in section 5 of chapter 15A of the General Laws, but excluding the University of Massachusetts at Amherst, Boston, Dartmouth, Lowell and Worcester, receiving an additional benefit in accordance with this act and shall file such list with the house and senate committees on ways and means and the comptroller not later than October 15, 2003 and shall supplement the list as may be deemed necessary through June 30, 2005. For each such position, the list shall include the item of appropriation in which the position is funded, the name of the public institution in the system of higher education, as defined in said section 5 of said chapter 15A, which is funded by such item, the classification title of the position, the salary range for the title and the salary payable to the person who retired from the position. The list and any supplements shall indicate which of these positions have been refilled, the date on which they were refilled and the annual salary of each refilled position.

(m) Notwithstanding any general or special law to the contrary, no person shall be hired by a division of the University of Massachusetts on a permanent or temporary basis to fill any position made vacant by the retirement of an employee receiving an additional benefit in accordance with this act and the comptroller shall not authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials from any account funded by an appropriation to any such person on or after October 1, 2003 until June 30, 2005. If it is determined that a position is critical and essential to the operations of 1 or more services provided by the commonwealth, the board of trustees of the University of Massachusetts shall include such position in a schedule which shall include: (i) the classification title of each position; (ii) the item of appropriation in which the position is funded; (iii) the number of positions listed in the schedule with the title; (iv) the salary range payable to each position; and (v) the approximate date during the fiscal period of October 1, 2003 to June 30, 2005, inclusive, that it is determined that the position shall be filled. Said board shall prepare 1 or more supplementary schedules in the same form if said board shall determine that a supplementary schedule shall be necessary. The schedule shall be filed with the house and senate committees on ways and means and such positions may be filled prior to June 30, 2005 but in no instance shall such positions be filled earlier than 10 days following the filing of the schedule with said committees; provided, that the total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2004 for refilled positions in the University of Massachusetts shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2004 for the positions vacated in the University of Massachusetts pursuant to the retirement incentive program had such positions not been vacated. The total annualized cost of regular compensation paid out by the commonwealth in fiscal year 2005 for refilled positions in the University of Massachusetts shall not exceed 20 per cent of the total annualized cost of regular compensation which would have been paid out by the commonwealth during fiscal year 2005 for the positions vacated in the University of Massachusetts pursuant to the retirement incentive program had such positions not been vacated. The board of trustees or the president of the University of Massachusetts shall not create any position title or similar position title within the same item of appropriation as those contained in the list filed pursuant to section (n) of this act, before June 30, 2005. The comptroller shall authorize the payment of any regular compensation, including paid leave, vacation, salary in lieu of vacation, payment in lieu of maintenance, holiday pay, overtime pay and salary differentials for position titles on file pursuant to subsection (n).

(n) The board of trustees of the University of Massachusetts shall list each position made vacant by the retirement of an employee of any division of the University of Massachusetts receiving an additional benefit in accordance with this act and shall file such list with the house and senate committees on ways and means and the comptroller not later than October 15, 2003 and shall supplement the list as may be deemed necessary through June 30, 2005. For each such position, the list shall include the item of appropriation in which the position is funded, the name of the public institution in the system of higher education, as defined in section 5 of chapter 15A of the General Laws, which is funded by item, the classification title of the position, the salary range for the title and the salary payable to the person who retired from the position. The list and any supplements shall indicate which of these positions were refilled, the date on which they were refilled and the annual salary of each refilled position.

(o) The executive director of the public employee retirement administration commission shall analyze, study and evaluate the costs and actuarial liabilities attributable to the additional benefits payable in accordance with this act. Said commission shall file a report with the secretary of administration and finance, the joint committee on public service and the house and senate committees on ways and means on or before January 15, 2004.

(p) A state agency with an employee opting into the retirement incentive program under this act shall submit to the house and senate committees on ways and means a report detailing the amounts of sick and vacation time accrued for each such employee.

(q) Notwithstanding any general or special law or any collective bargaining agreement or other employment contract to the contrary and in consideration of the benefits conferred in this act, an employee who elects to retire under this act and is eligible to receive a payment in lieu of accrued vacation time, unused sick leave or other benefit under such agreement or contract shall waive the required remittance of that payment within 30 days and shall receive 1/4 of such payment on July 1, 2003, 1/4 of such payment on July 1, 2004, 1/4 of such payment on July 1, 2005, and 1/4 of such payment on July 1, 2006. Each such employee shall sign a statement that he has agreed to receive 1/4 of such payment on July 1, 2003, 1/4 of such payment on July 1, 2004, 1/4 of such payment on July 1, 2005, and 1/4 of such payment on July 1, 2006 prior to the approval by the state board of retirement of the employee's application for superannuation benefits and the additional benefit provided by this act. The state board of retirement shall deny an application for early retirement under this act by an employee who belongs to a bargaining unit for which a collective bargaining agreement inconsistent with this section is in effect at the time of that application, unless the employee organization representing that employee has filed with said board and with the secretary of administration and finance a statement waiving any such inconsistent provision of the agreement on behalf of all members of the bargaining unit who file applications under this act.

(r) The Massachusetts Turnpike Authority established pursuant to chapter 81A of the General Laws, the Massachusetts Housing Finance Agency established pursuant to chapter 708 of the acts of 1966, as amended, the Massachusetts Port Authority established pursuant to chapter 465 of the acts of 1956, as amended, the Massachusetts Water Resources Authority established pursuant to chapter 372 of the acts of 1984, as amended, and the Massachusetts Convention Center Authority established pursuant to chapter 190 of the acts of 1982 may individually elect to allow their Group 1 employees to participate in the retirement incentive program by a majority vote of their boards of directors, which vote shall occur not later than November 1, 2003. Eligibility for the retirement incentive program shall not exceed that provided in section 1 of this act as applied to the circumstances at the particular authority or agency. Each authority and agency may restructure the retirement incentive program at its discretion but the benefit received by a retiree shall not exceed the retirement benefits provided in section 3. The effective retirement date for employees of the Massachusetts Turnpike Authority, the Massachusetts Housing Finance Agency and the Massachusetts Water Resources Authority shall be not earlier than the effective date of this act and not later than June 30, 2004.

(s) On or before March 15, 2004, the secretary of administration and finance shall file with the joint committee on public service and the house and senate committees on ways and means a report detailing for each state department, including each campus of the University of Massachusetts and each state and community college, the state-funded full-time equivalent standard workforce as of June 30, 2005 required to accommodate the spending levels authorized by the general appropriation act and supplemental appropriation acts for fiscal year 2005, the number of employees participating in the retirement incentive program, the estimated salary savings in fiscal years 2004 and 2005 as a result of such employees' participation, the number of positions vacated or expected to be vacated as a result of such employees' participation that have been or are expected to be refilled and the estimated salary costs in fiscal years 2004 and 2005 on account of such refilled positions.

SECTION 617. Notwithstanding the provisions of any general or special law to the contrary, the Secretary of the Executive Office of Health and Human Services shall develop a new program for the provision of medically necessary health care services for low income uninsured and underinsured residents of the commonwealth. Said program shall replace the purpose and services available through the uncompensated care trust fund, established pursuant to section 18 of chapter 118G of the General Laws.

In developing said program, the Secretary shall consult representatives from hospitals, including but not limited to, the 5 disproportionate share hospitals providing the greatest amount of free care, community health centers, health maintenance organizations, consumer and patient advocates, employer organizations, relevant policy experts, and shall examine: 1) the definitions of critical access services, free care, emergency medical condition and emergency services as defined in this act and use the free care audits produced by an independent auditor to determine which services are currently being covered by the pool and what services should be covered by the pool as part of the new program; and 2) the impact of Medicaid rates paid to disproportionate share hospitals and its relationship to said hospitals' demand for payments from the uncompensated care pool.

The Secretary shall devise a program which:

- (a) reforms the provision & financing of medically necessary care through the uncompensated care trust;
- (b) preserves access to medically necessary health care services for low income uninsured and underinsured residents of the Commonwealth;
- (c) establishes a fair and equitable program to fund uncompensated care;
- (d) maximizes the amount of federal financial participation or other federal revenue to which the commonwealth may be entitled without increasing the financial burden on the Commonwealth;
- (e) allocates the burden of funding uncompensated care among affected participants such that no single participant or group of participants bears a disproportionate burden for the cost of providing such care;
- (f) protects the unique mission of those organizations who disproportionately provide and deliver medically necessary health care services to a disproportionate number of low income uninsured and underinsured residents of the commonwealth;
- (g) encourages coordination with and the utilization of public and private insurance programs, including programs operated by the division of medical assistance;
- (h) adopts specific measures and procedures to achieve efficiency, accountability, effective management and the administration of the uncompensated care pool, so-called;
- (i) includes a reimbursement system that is efficient and operable on a statewide basis;
- (j) delineates the resources necessary to track and analyze uncompensated care pool utilization;
- (k) promotes the delivery of patient care in the most appropriate, cost-effective manner and location available, while protecting patient access to medically necessary care;
- (l) includes effective forms of care management for uncompensated care pool utilizers;
- (m) streamlines administrative operations & functions for health care providers who are subject to the uncompensated care pool, so-called, to the extent possible and practicable;
- (n) maximizes the use of federal financial participation without increasing the financial burden on the Commonwealth;
- (o) holds the Commonwealth's obligation to the uncompensated care pool to no more than \$30,000,000;
- (p) creates an incentives for hospitals to provide free care;
- (q) includes any and all legislation necessary to implement said program.

The Secretary shall file any and all recommendations, including any proposed legislation, with the clerks of the senate and the house of representatives and the house and senate committees on ways and means on or before October 1, 2003.

SECTION 618. Notwithstanding any general or special law to the contrary, the comptroller shall transfer, on or after October 1, 2003, \$55,000,000 of federal reimbursement received in fiscal year 2004 by the Commonwealth pursuant to section 401(a) of the Jobs and Growth Tax Relief Reconciliation Act of 2003 to the Uncompensated Care Trust Fund for the purpose of funding one-time payments to acute care hospitals and community health centers.

SECTION 619. Notwithstanding any general or special law to the contrary, the comptroller shall transfer, on or after October 1, 2003, \$35,000,000 from the General Fund to the Uncompensated Care Trust Fund for the purpose of funding one-time payments to acute care hospitals and community health centers.

SECTION 620. Notwithstanding the provisions of any general or special law to the contrary, the following payments shall be made from the Health Care Quality Improvement Trust Fund in fiscal year 2004 utilizing monies accumulated in said fund during fiscal year 2003 as a result of the prohibition of retroactive application of rate increases to nursing homes approved by section 180 of chapter 184 of the Acts of 2002:

(1) \$6,500,000 for grants to community health centers for one-time grants for costs incurred by the development of the staff and infrastructure necessary to accommodate the MassHealth disabled population pilot project as mandated by this act and to mitigate the effect of changes made to clause (g) of section 9A of chapter 118E of the General Laws by chapter 184 of the Acts of 2002;

(2) \$5,000,000 for the purpose awarding one-time grants to community health centers for capital, equipment, and other costs for the purpose of increasing access to health care for medically underserved populations or areas of the commonwealth through extended hours and innovative urgent care strategies including but not limited to diverting non-emergency visits from hospitals emergency departments. The criteria for awarding such grants shall include, but not be limited to, the lack of sufficient access to cost-effective outpatient services in the geographic area of the applicant to financially sustain the program in future years, the long-term viability of the applicant, and any other criteria the commissioners of the division of medical assistance and the division of health care finance and policy deem appropriate. An advisory group consisting of the secretary of health and human services, who shall chair the group, the commissioner of the division of medical assistance, the commissioner of the department of public health, the executive director of the Massachusetts League of Community Health Centers, or their designees, shall recommend to the commissioner of health care finance and policy not later than 45 days after the effective date of this act the most efficacious means of awarding said grants consistent with the provisions of this section. The grants shall be awarded not later than six months after the effective date of this act. The commissioner of health care finance and policy shall submit a report to the house and senate committees on ways and means when said grants are awarded, specifying which community health centers will receive funds from this item and the amounts and uses of the awards;

(3) \$1,500,000 to the city of Haverhill over a period of two years for the severe financial hardship resulting from maintaining critical health services through the operation of the former municipally-owned Hale Hospital. Said funds may be utilized for the expenses relative to health insurance and pension costs attributable to retirees of Hale Hospital during fiscal years 2004 and 2005;

(4) \$2,500,000 for a contract with an independent auditor for the purpose of examining the costs and services being billed to the Uncompensated Care Pool, pursuant to section 641 of this act;

(5) \$4,100,000 for the career ladder grant program in long-term care established pursuant to section 410 of chapter 159 of the acts of 2000, provided; that grants shall be available for certified nurses' aides, home health aides, homemakers and other entry-level workers in long term care; provided further, that the length of such grants shall not exceed a period of 3 years; provided further, that the Commonwealth Corporation shall submit quarterly reports to the house and senate committee on ways and means on said grant program including, but not limited to, the number of grants awarded, the amount of each grant, a description of the career ladder programs, changes in care giving and workplace practices that have occurred and their impact on quality of care and worker retention and the certificates, degrees or professional status attained by each participating employee; provided further, that the administrative and program management costs for the implementation of the grant program shall not exceed 4 per cent of the amount provided for in this item; and provided further, that grants may also include funding for technical assistance and evaluation;

(6) \$3,000,000 to fund expenses at the division of health care quality within the department of public health to enforce and improve nursing home quality standards partially funded in item 4510-0710; provided, that \$1,000,000 shall be expended to support boards of registration being transferred to or serving in the department of public health;

(7) \$2,000,000 for administrative expenditures at the division of medical assistance, partially funded in item 4000-0300, related to the establishment of a program of care management for Medicaid recipients with high-utilization of medical services; provided, that the division shall use the funds to identify health care costs and pricing patterns in the Medicaid program that are not cost effective or medically appropriate using best practices and identify alternatives which provide for an integrated approach to managing health care needs of recipients at risk of or diagnosed with specific ailments, including, but not limited to, asthma, congestive heart failure, diabetes, heart disease and stroke; provided further, that the program shall be designed to improve health care and health outcomes, reduce unnecessary or avoidable inpatient hospitalization, and reduce the number of emergency room visits by such recipients; provided further, that the program shall require the provision of clinically appropriate care management based on best practices, clinical studies and health outcome research; provided further, that the division shall report to the house and senate committees on ways and means by March 1, 2004, the number of individuals participating in the program and any reduction in utilization or spending resulting from the program; provided further, that administrative expenditures may include contracts with disease management organizations;

(8) \$1,500,000 for non-recurring payments to financially distressed visiting nurse association that are operated by a corporation organized pursuant to chapter 190 of the General Laws, are located in an urban area, have experienced an operating deficit during the last two fiscal years and whose Medicaid and other governmental revenues comprise at least 75% of total revenues;

(9) \$300,000 for a statewide stroke education and public awareness program at the department of public health to educate the public and providers, including emergency medical systems personnel, medical dispatchers and fire and police department personnel, about the warning signs of stroke, the recognition of stroke symptoms, and the importance of timely and appropriate acute care treatment. The department shall coordinate such program with any ongoing federally-funded statewide efforts, including any programs funded by federal cardiovascular health initiative grants and shall seek to maximize other available sources of funding to accomplish the goals of the program;



(10) \$162,368 for the MS PASS program, so-called, as previously established at the department of public health. Said funds shall be expended to maximize matching dollars to be used for services provided by the program as managed by the Central New England chapter of the National Multiple Sclerosis Society.

SECTION 621. Notwithstanding any general or special law to the contrary, the division of medical assistance may expend an amount not to exceed \$16,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to certain publicly-owned or publicly-operated providers including, but not limited to, Neville Communities Home, Inc., Cape End Manor, Taunton Nursing Home, Hampshire Care, Our Island Home, and the Geriatric Authority of Holyoke provided that no such payment shall be made until the division determines that a home qualifies for matching federal revenue under Title XIX. The payments shall be established in accordance with Title XIX of the Social Security Act or any successor federal statute, any regulations promulgated thereunder, the commonwealth's Title XIX state plan and the terms and conditions of agreements reached with the division for such payments. No funds shall be expended unless a public entity is legally obligated to make an intergovernmental funds transfer in an amount specified in an agreement with such entity, which amount shall not be less than 50 per cent of the Title XIX payment. All revenues generated pursuant to this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with subsection (o) of section 18 of chapter 118G of the General Laws.

SECTION 622. Notwithstanding any general or special law to the contrary, the comptroller shall certify that all revenues generated from license fees, permit fees and any other sources of revenue pertaining to inland fishing, hunting and trapping permit fees under the provision of section 22A in chapter 131, from the sale authorized in section 6 of said chapter 131 and sums received by the commonwealth from the federal government as reimbursed, grants in aid or other receipts on account of activities of the division of fisheries and wildlife and any and all interest generated from the balances of said fund shall be expended solely upon the following: the payment of general administrative expenses of the division of fisheries and wildlife, for acquiring, maintaining or leasing public fishing rights on land on inland streams and ponds, including stream management and the creation of new ponds, for acquiring, maintaining or leasing public hunting rights on land within the commonwealth, for biological surveys of the inland waters of the commonwealth, for propagation of game birds and fish, for salvaging and distributing game birds and fish, for acquisition and maintenance of wildlife sanctuaries and fish and wildlife management areas, for maintaining water resources to provide an adequate water supply for wildlife, for maintaining sources of food for game birds, for other general purposes of said division and said executive office, for payment of the amount necessary for personal services and other expenses for and on account of the enforcement of laws relating directly to game and inland fisheries, such amounts to be determined by the commissioner of administration, for the acquisition by purchase, lease, easement, or license of land or interest therein critical to nongame wildlife and endangered species for multiple purposes of protecting and enhancing nongame wildlife and encouraging compatible wildlife uses, for the management, inventory, preservation, protection, perpetuation, and enhancement of nongame wildlife and endangered species in the commonwealth, for supplementing funds provided to the natural heritage and endangered species program for the purpose of aiding in the protection of rare, threatened, and endangered species in the commonwealth, and for the payment of fringe and related costs as determined by the state comptroller. Upon the determination of the state comptroller, any transfers authorized in this act that would divert funds from the purposes stated herein and would result in the loss of receipt of federal reimbursements, grants in aid or other forms of federal assistance, shall not occur. The Comptroller shall certify annually to the General Court the amount of revenues received and expended pursuant to the provisions of this section.

SECTION 623. Notwithstanding any general or special law to the contrary, during fiscal year 2004, the comptroller shall transfer from the Health Care Security Trust, established under chapter 29D of the General Laws, to the General Fund an amount equal to 100 per cent of the total of all payments received by the commonwealth in fiscal year 2004 pursuant to the master settlement agreement in the action known as Commonwealth of Massachusetts v. Phillip Morris, Inc. et. al., Middlesex Superior Court, No. 95-7378 and 50 per cent of the earnings generated in fiscal year 2004 from the Health Care Security Trust as certified by the comptroller pursuant to paragraph (f) of section 3 of chapter 29D of the General Laws for certain health care expenditures appropriated in section 2.

SECTION 624. Notwithstanding any general or special law to the contrary, the operational services division shall establish a price adjustment review commission which shall make recommendations about special education rate calculations and rate structures and study issues related to cost increases for matters of health and safety, as defined by state and federal regulations, and as required by the department of education where the department has determined that certain cost increases must be implemented prior to the effective date of the tuition increase resulting from program reconstruction for fiscal year 2005. The commission shall include the commissioner of social services or his designee, the commissioner of education or his designee, the secretary of administration and finance or his designee, the house and senate chairs of the joint committee on education or their designees, the chairs of the house and senate ways and means committees or their designees, a representative of the Massachusetts association of school committees, a representative of the Massachusetts association of school superintendents, a representative of the Massachusetts association of special education administrators, and a representative of the Massachusetts association of chapter 766 approved private schools. The commission shall submit its report to the legislature, along with any proposed legislation necessary to carry such recommendation into effect, no later than October 1, 2003.

SECTION 625. Notwithstanding any general or special law to the contrary, the department of public health and all public institutions of higher education receiving funding from the commonwealth shall take all steps necessary to begin participation in the state comptroller's Intercept Program for overdue receivables. Each agency and institution of higher education shall designate 1 officer responsible for coordinating the necessary steps with the office of the state comptroller. The responsible officer shall submit timely and sufficient information to the office of the state comptroller so that the comptroller may examine accounts and demands against the commonwealth as provided in section 3 of chapter 7A of the General Laws.

The state comptroller shall, not later than December 15, 2003, certify to the house and senate committees on ways and means the level of cooperation being extended by the specified state agency and public institutions of higher education to the state comptroller in pursuit of the goals of this section. Any agency or public institution of higher learning that is not certified as being in full cooperation with the state comptroller shall have the appropriation level of its designated line item reduced according to the following schedule:

- A) Department of Public Health: Reduction of \$840,000 from line item 4510-0100
- B) Roxbury Community College: Reduction of \$360 from line item 7515-0100
- C) Fitchburg State College: Reduction of \$340 from line item 7110-0100
- D) Worcester State College: Reduction of \$300 from line item 7116-0100
- E) University of Massachusetts at Dartmouth: Reduction of \$33,000 from line item 7100-0200
- F) University of Massachusetts at Amherst: Reduction of \$265,000 from line item 7100-0200
- G) University of Massachusetts at Boston: Reduction of \$90,000 from line item 7100-0200
- H) University of Massachusetts at Lowell: Reduction of \$40,000 from line item 7100-0200
- I) University of Massachusetts Medical School: Reduction of \$970 from line item 7100-0200

The state comptroller shall, not later than March 15, 2004, report to the house and senate committees on ways and means on the implementation of Intercept Program participation for the agencies and public institutions of higher education identified in this section. The report shall also include an estimate of the amount of overdue receivables that is expected to be collected on behalf of the specified agencies and public institutions of higher education as a result of participation in the Intercept Program in fiscal year 2004.

SECTION 626. Notwithstanding any general or special law to the contrary the executive office of transportation and construction shall submit to the joint committee on transportation no later than January 1, 2004 studies regarding (a) the safety and efficiency of the North End Rotary located on Route 20 in the town of West Springfield, (b) the construction of a berm or sound barrier along Gina Circle in Framingham, and (c) the construction of traffic signals and roadway improvements at the intersection of Rockdale Ave. and Bolton Street in the city of New Bedford.

SECTION 627. The secretary of the executive office of environmental affairs shall coordinate the delivery of services of the departments and divisions under his control to ensure the protection of the air, water, natural resources and land of the commonwealth and to provide support for the provision of recreational activities for the citizens of the commonwealth. In conducting said duties, the secretary shall also work in coordination with departments and division under his control to provide continued support for the recreational facilities currently operated in the commonwealth. The secretary shall continue to maintain the public appreciation and enjoyment of the commonwealth's natural resources, including bicycle and walking paths, hiking trails, beaches, and other public open space. To effectuate the aforementioned policies, the secretary shall ensure the following: (1) all pools and spray pools under the jurisdiction of said executive office shall remain open for not less than 10 weeks during the summer months; (2) all rinks under the jurisdiction of said executive office shall be open from October through April; (3) all golf courses under the jurisdiction of said executive office shall be maintained and groomed and open to the public for reasonable rates April through November; (4) all playgrounds, tennis courts, local parks, athletic fields and stadia under the jurisdiction of said executive office shall be open for the public use year round and shall be clean and safe for the citizens of the commonwealth; (5) all beaches shall be staffed by lifeguards during the summer swimming season and the beaches shall be cleared of litter and other pollutants; (6) all 750 lane-miles of parkways shall be repaired and kept in good operating condition, including the removal of snow, paving of potholes, and other weather-related damage.

The secretary shall coordinate the delivery of services of the departments and divisions under his or her control to ensure the protection of air, water, land, and other natural resources of the commonwealth and to provide support for the acquisition, management, utilization, and conservation of habitat for native flora and fauna. The secretary shall continue to assure the health and viability of the commonwealth's biodiversity for future generations. To effectuate the aforementioned policies, the secretary shall ensure the following: (1) Provide assistance to the departments and divisions under his or her control, including the administration of funds to cities and towns, for the acquisition of interests in land for conservation purposes; (2) Develop partnerships with private, non-profit and other entities that will augment the commonwealth's stewardship and acquisition of such lands; (3) Monitor and enforce all conservation restrictions held by the commonwealth; (4) Enforce all laws and regulations promulgated for the protection of watersheds, lakes, ponds, rivers, streams, coastal and inland wetlands; (5) Develop natural resource management plans for all state forests, reservation, and wildlife management areas; (6) Ensure that sustainable forestry management practices are employed on all state-owned lands, and that such practices are coordinated with private forestland management practices to achieve landscape-scale goals; (7) Promote the sustainable economic development of the private agricultural and forestry resources of the commonwealth; (8) Promote research and monitoring to establish ecological benchmarks for assessing the health and viability of the commonwealth's biodiversity.

SECTION 628. Notwithstanding any general or special law to the contrary the department of conservation and recreation shall continue to maintain a visitor's informational center in the Quabbin reservation, shall continue to provide, at a minimum, the access and recreational activities that are consistent with the current plans, and shall continue to operate the Quabbin watershed advisory committee and a Ware River watershed advisory committee as provided in section 114 of Chapter 92. On July 1, 2003, ownership, possession and control of the system personal property as it relates to the watershed system shall pass to and be vested in without consideration or further evidence of transfer, and shall thereafter be in the ownership, possession and control of the department of parks and recreation. All such system personal property shall include, without limitation, records, books, maps, plans and documents of any kind and description, and held in any media including without limitation computerized data. All records pertaining to the history of the Swift River and Ware River valleys, land takings therein, Quabbin reservoir construction and matters regarding the 4 discontinued towns and extant adjacent communities shall remain accessible to the public at the Quabbin reservoir administrative facilities in Belchertown, Massachusetts. Said department of conservation and recreation, acting only on behalf of the Commonwealth, may acquire from any person, real property or any interest or rights therein deemed by it essential for the operation, improvement, maintenance, management or enlargement of the watershed system, by purchase, by gift or by eminent domain in accordance with the provisions of Chapter 79 or Chapter 80A of the General Laws, without the further prior approval of the Governor or the General Court; provided, that all such acquired watershed lands shall be held in the name of the Commonwealth of Massachusetts. Such acquired watershed lands shall become part of the department of conservation and recreation system of real

property. No disposition of any lands acquired as part of the watershed system or rights in supply or acquisition of rights in sources of water supply may occur without the prior approval of the Governor and the General Court; provided, that such approval be in compliance with the provisions of Article 97 of the Massachusetts Constitution.

SECTION 629. The commissioner of conservation and recreation, in consultation with the division of capital asset management and maintenance, shall devise a long-term plan for improving the quality of the services offered in recreational facilities in the commonwealth. Such plan shall consider the feasibility and merits of executing long-term lease arrangements for recreational facilities that are under the control of the department, including but not limited to those recreational facilities under the control of the metropolitan district commission as of June 30, 2003, including the skating rinks and golf courses. The commissioner shall also report on the long-term lease program implemented by the former department of environmental management for the skating rinks formerly under its control, including an evaluation of the capital improvements that have been made, improvements in service and hours of operation and the financial results of such transactions. The commissioner shall also recommend ways to attract quality bidders, maximize capital improvements, extend hours of operation and the services that are available in such facilities and to minimize personnel disruption resulting from such transactions. The plan shall include recommendations for legislative actions that may be required to improve the quality of services in recreational facilities. The commissioner shall submit his report to the house and senate committees on ways and means and to the joint committee on natural resources and agriculture no later than December 1, 2003.

SECTION 630. Notwithstanding any general or special law or regulation to the contrary, the secretary of administration and finance shall increase the retailer license fee set forth in 801 CMR 4.02 to \$200 per license; provided, however, that said fee increase shall take effect on July 1, 2003.

SECTION 631. Notwithstanding any general or special law to the contrary and with the exception of fees charged for the testing of blood lead levels, fees charged by the division of occupational safety authorized in subsection (e) of section 197B of chapter 111 of the General Laws, section 46F of chapter 140 of the General Laws or section 6B of chapter 149 of the General Laws under the minimum wage program under 801 CMR 4.02 shall be set at a rate not less than twice the rate charged on July 1, 2002.

SECTION 631A. (a) To provide five-year funding for the capitalization of the Affordable Housing Trust Fund, established by chapter 121D of the General Laws, the sums set forth in subsection (b), for the purposes set forth in said chapter 121D and subject to the conditions specified in this section, are hereby authorized for expenditure from the General Capital Projects Fund unless specifically designated otherwise, subject to the laws regulating the disbursement of public funds and the approval thereof.

(b)

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT.

7004-8020 For the capitalization of the Affordable Housing Trust Fund, established by chapter 121D of the General Laws  
70,000,000

(c) To meet the expenditures necessary in carrying out subsection (b), the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$70,000,000. All of these bonds issued by the commonwealth shall be designated on their face, Affordable Housing Trust Fund Bond Act of 2003, and shall be issued for a maximum term of years, not exceeding 20 years, as the governor may recommend to the general court pursuant to Section 3 of Article 62 of the Amendments to the Constitution. The bonds shall be payable not later than June 30, 2031. All interest and payments on account of principal on the obligations shall be payable from the General Fund. Bonds and interest thereon issued under this section shall, notwithstanding any other provision of this section, be general obligations of the commonwealth. The department of housing and community development may expend an amount not to exceed 2 per cent of these authorizations for administrative costs directly attributable to the purposes of this section, including costs of clerical and support personnel. The director of the department shall file an annual spending plan with the fiscal affairs division and the house and senate committees on ways and means detailing, by subsidiary, all personnel costs and administrative costs charged to expenditures made pursuant to this section.

(d) The director of the department of housing and community development shall submit annually to the house and senate committees on ways and means, the joint committee on housing and urban development and the house and senate committees on long term debt and capital expenditures, a 5-year capital plan for fiscal years 2004, 2005, 2006, 2007 and 2008 for capital funds authorized by this section. This capital spending plan shall reflect a balanced allocation of capital funds authorized by this section.

SECTION 632. Notwithstanding any general or special law to the contrary, the division of medical assistance shall, subject to approval or modification by the secretary in programs where federal funding is available, set limits on the number of adults who shall receive benefits under any of the following provisions: clause (d), (e), (h) or (i) of subsection (2) of section 9A of chapter 118E of the General Laws or section 9C, 16 or 16D of said chapter 118E. When an eligibility limit has been reached or exceeded, whether or not limited to higher income levels, the division may close enrollment but shall provide written notification to the house and senate committees on ways and means and the joint committee on health care at least 30 days in advance of taking such action, until such time or under such circumstances as the division shall determine. If the division closes enrollment, it shall also report to the committees the number of eligible individuals who have applied for and been denied coverage due to the enrollment cap. This provision shall be effective for applications submitted after the effective date of this act or after such later date as approved by the secretary.

SECTION 633. Notwithstanding any general or special law to the contrary, for fiscal years 2004 to 2008, inclusive, all tuition and fees received by a board of trustees of the Massachusetts College of Art shall be retained by the board of trustees of that institution in a revolving trust fund or funds and shall be expended as the board of the institution may direct. Any balance in the trust funds at the close of a fiscal year shall be available for expenditure in subsequent fiscal years and shall not revert to the General Fund.

Notwithstanding any general or special law to the contrary, the board of trustees for the university of Massachusetts system and the president of the university are hereby authorized and directed to establish a two year pilot program for out of state tuition retention at the flagship campus of the university at Amherst. The board shall promulgate regulations to allow the administration of the Amherst campus to retain, in fiscal year 2004, all tuition paid by students who are not residents of Massachusetts. The regulations

shall ensure that no resident of Massachusetts is denied admission to the Amherst campus as a result of the tuition retention pilot project. The board of trustees for the university system shall issue a report on the progress of said initiative no later than February 1, 2004 to the house and senate chairs of the joint committee on education, arts, and humanities, and the chairs of the house and senate ways and means committees. The report shall include the number of out of state students attending the school, the amount of tuition revenue retained under the program, and any programs or initiatives funded with the retained revenue.

Notwithstanding any general or special law to the contrary, for employees of public higher education institutions who are paid from tuition retained pursuant to this section, fringe benefits shall be funded as if those employees' salaries were supported by state appropriations. This section shall apply only to fringe benefits associated with salaries paid from tuition retained by the boards of trustees of public higher education institutions as a direct result of the implementation of this section. This section shall apply only in fiscal year 2004.

SECTION 634. The Massachusetts College of Art shall submit to the board of higher education, and said board shall consider, a proposal under clause (p) of section 22 of chapter 15A of the General Laws, as amended by section 63 of this act. The proposal shall establish tuition rates and admission standards for the college, and shall assure that the number of undergraduate degree candidates who are Massachusetts residents enrolled on October 1 of 2003 and each subsequent year thereafter shall be no less than 60 per cent of the total number of undergraduate degree candidates enrolled, or the number of Massachusetts residents enrolled on October 1, 2002, whichever is greater. In-state tuition rates for the college shall preserve affordability for Massachusetts residents. Out-of-state tuition rates shall appropriately balance the financial needs of the college with the need to be competitive with peer institutions regionally and nationwide. The proposal shall include provisions for performance standards specific to the mission of said college to be used in place of the performance measurements system otherwise in effect. Within 90 days of the submission of a proposal, the board shall formally approve the proposal, or shall return it to said college with suggested changes. If the board takes no action within 90 days of receipt of said proposal, it shall be considered approved.

SECTION 635. Notwithstanding any general or special law to the contrary, the board of education shall take such action as necessary, including, as appropriate, promulgating emergency regulations to modify the process governing MCAS appeals for children with disabilities as defined by the provisions of chapter 71B and Section 504 of the Rehabilitation Act of 1973 (29 USC 794) and regulations promulgated thereto, including children with disabilities subject to the MCAS graduation requirement in 2003. The appeals process established by 603 CMR 30.05 shall be revised to include the following provisions: A child with a disability shall be eligible for an MCAS appeal if the following criteria are met: a) the child has taken the grade 10 MCAS at least three times in each subject area considered in the competency determination in which the student did not achieve a pass score or submitted a portfolio assessment through the MCAS Alternative Assessment at least two times without being granted a competency determination; b) the child has maintained an adequate attendance level as established by the department, or the child's days of absences from school in excess of the number allowed by the department are excused; c) the child has demonstrated participation in academic support services made available and accessible by or approved by the school district under an individual student success plan or under any other plan designed to strengthen the student's knowledge and skills in the subject(s) at issue, or the child's lack of participation in available academic support services has been related to the child's disability.

The regulations shall require that, at the request of the child's parent or guardian or with the parent or guardian's consent, the superintendent of schools for the school district in which the student is enrolled, or the superintendent's designees, shall file an appeal on behalf of a child with an individual education plan. The superintendent may submit written comments or evidence with the appeal. Denial of an earlier appeal shall not prevent a new appeal under the provisions of this section.

The regulations shall require that the superintendent include in the performance appeal evidence of the student's knowledge and skills in the subject(s) at issue, including: (a) documentation that the student has met the local graduation criteria established by the local school committee; (b) documentation that the child's individual education plan team, with the approval of a parent or guardian of the child, recommends graduation for the student consistent with chapter 71B and the Individuals with Disabilities Education Act (IDEA); (c) certification from the individual education plan team, including the parent or guardian, that the student's knowledge and skills in English language arts, mathematics, or both subjects meet or exceed the performance level established by the board of education for the competency determination and that the student's MCAS scores do not accurately measure the student's abilities; (d) a recommendation from one or more of the child's teachers in the area(s) of appeal, assessing the level of the student's knowledge and skills in the subject area(s) at issue; (e) where possible, a meaningful comparison of the child with a group of other students who passed the MCAS in the subject area of the student's appeal; provided, however that, in the event of an inability to identify an appropriate set of students to enable a meaningful comparison with other students provision (e) shall be waived and shall not be reason for denying a performance appeal; and (f) other supporting information relevant to the determination as to whether the student's knowledge and skills in English language arts, mathematics, or both subjects meet or exceed the performance level established by the board of education for the competency determination, which may include work samples, scores of the student on other standardized tests in the subject area(s), evidence of acceptance to college courses, portfolios of student work, or other evidence of academic achievement which demonstrates that the student meets the competency determination standard.

The Commissioner shall grant the appeal for a child with an individual education plan unless the commissioner finds that there is compelling evidence in the documentation provided in (a) through (f) above or evidence submitted by the superintendent that, contrary to the certification of the individual education plan team, the MCAS does accurately reflect the failure to have achieved knowledge and skills commensurate with a performance level required for the competency determination, in which case the commissioner must provide written documentation of such evidence to the individual education plan team, including the parents. Nothing herein shall affect or in any way limit a child's rights available under chapter 71B or IDEA.

The commissioner of education shall: develop and implement a system to effectively monitor and enforce provisions of federal and state law which require provision of accommodations, modifications, and alternate assessments for children with disabilities participating in MCAS; develop and implement a system to effectively monitor and enforce provisions of federal and state law which ensure access to and meaningful participation in the general curriculum so that children with disabilities can meet the educational standards established in the learning standards set forth in the Massachusetts Curriculum Frameworks; establish policies and procedures to ensure that children with disabilities receive the accommodations, special education, related services, and supplementary aids and services necessary to participate in any MCAS tutorial, remedial, or academic support services made available by or approved by the school committee or the department; and develop and implement a system to effectively monitor and enforce

provisions of federal and state law which require school districts to ensure that a continuum of alternative placements is available to provide a free and appropriate public education to meet the needs of children with disabilities who have not demonstrated competency on the grade 10 MCAS examination even though they have satisfied local graduation requirements.

SECTION 636. Notwithstanding any general or special law to the contrary, the division of apprentice training shall charge a fee of \$50 for apprentice program sponsor verification on public bidding projects.

SECTION 637. Notwithstanding any general or special law to the contrary, the division of apprentice training shall charge an annual fee of \$300 to certify apprentice training sponsors.

SECTION 638. Notwithstanding any general or special law to the contrary, the division of apprentice training shall charge a fee of \$40 for an optician apprentice application.

SECTION 639. Notwithstanding any general or special law to the contrary, 50 per cent of the fees collected by any sheriff or deputy sheriff, including those sheriffs and deputy sheriffs serving civil process within a county that has not been abolished pursuant to chapter 34B of the General Laws or any other applicable provision of law, in excess of the fee structure in place for section 8 of chapter 262 of the General Laws prior to July 1, 2003 and pursuant to section 646 of this act, shall be transmitted to the state treasurer for deposit into the General Fund of the commonwealth. Each sheriff receiving an appropriation in items 8910-0000, 8910-0102, 8910-0105, 8910-0107, 8910-0108, 8910-0110, 8910-0145 or 8910-0619 of section 2 that fails to file the report required by section 646 on or before February 1, 2004 shall transmit, after February 1, 2004, 100 percent of the fees so collected in excess of the fee structure in said section 8 of said chapter 262 prior to July 1, 2003 and pursuant to said section 646 to the state treasurer for deposit into the General Fund of the commonwealth.

SECTION 640. Notwithstanding any general or special law to the contrary, the office of child care services shall report to the house and senate committees on ways and means and the secretary of administration and finance within 90 days of the end of state fiscal year 2004 on the amount of spending within each budget line item in state fiscal year 2004 that was used to maximize federal reimbursement and the amount of spending within each budget line item in state fiscal year 2004 that was used to meet federal maintenance of effort requirements of the federal Child Care Development Block Grant. This report will also include the amount of funding available to the commonwealth in state fiscal year 2004 from the Child Care Development Block Grant that the commonwealth did not expend in state fiscal year 2004, which the commonwealth therefore may expend in state fiscal year 2005.

SECTION 641. Notwithstanding any general or special law to the contrary, the department of transitional assistance shall report to the house and senate committees on ways and means and the secretary of administration and finance within 90 days of the end of state fiscal year 2004 on the amount of spending within each budget line item in state fiscal year 2004 that was used to maximize federal reimbursement and the amount of spending within each budget line item in state fiscal year 2004 that was used to meet federal maintenance of effort requirements of the federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996. This report will also include the amount of funding available to the commonwealth in state fiscal year 2004 from the Transitional Aid to Needy Families Block Grant that the commonwealth did not expend in state fiscal year 2004, which the commonwealth therefore may expend in state fiscal year 2005.

SECTION 642. Notwithstanding any general or special law to the contrary, the division of medical assistance shall seek any necessary federal waivers or regulation changes and develop a pilot program within its primary care clinical plan and as part of its managed care organization procurement process with a contract effective date of July 1, 2004 for certain managed care eligible, federally optional MassHealth members, aged 19 to 65, including but not limited to all persons who qualify for the MassHealth program pursuant to section 16 of Chapter 118E of the General Laws and all others who qualify under the division's disability criteria but are currently not receiving supplemental security income benefits due to federal income rules. Such pilot program and managed care contract shall include the provision of primary care through community health centers, hospital-licensed community health centers and, where necessary to ensure access, other large primary group practice settings. Said program shall be contracted by an open bidding process and reimbursed by the division at a predetermined capitated rate for each such enrolled MassHealth member. The plan shall require enrollees to choose a primary care physician, so called, in a community-based setting such as a community health center. As part of said pilot program waiver, the division shall mandate that providers contracting with this program shall accept Medicaid reimbursement rates for services to this population, including, but not limited to, hospital outpatient rates. In correlation with said pilot project, the division shall pursue discounts pursuant to 340B federal rules, so called, and shall cooperate with the Massachusetts League of Community Health Centers to carry out this requirement. The division shall take all steps necessary to ensure full implementation of this program by July 1, 2004. The waiver application shall be submitted to the federal centers of medicare and medicaid services by August 15, 2003. The division shall report to the house and senate committees on ways and means within 10 days of receiving federal approval for any applicable waivers and, no later than April 1, 2004, shall submit a report on any expected reductions in spending resulting from the provisions of this section, and the effect on the level of services available to participating members. Upon federal approval and demonstrated success of this pilot program, as determined by the division and the General Court, the division shall examine the feasibility of mandating that all eligible MassHealth enrollees shall be required to enter a community-based managed care program beginning in fiscal year 2006.

SECTION 643. Notwithstanding any general or special law to the contrary, the secretary of administration and finance shall increase licensing fees for wholesalers, vending machine operators and retailers as defined in section 1 of chapter 64C to a level that will generate revenues in an amount not less than \$2,535,000.

SECTION 644. Notwithstanding any general or special law to the contrary, in hospital fiscal year 2004, the division of health care finance and policy is authorized to administer, as provided in this section, the Uncompensated Care Trust Fund established by section 18 of chapter 118G of the General Laws, to collect assessments as specified in section 1 of said chapter 118G for deposit to the fund, and make certain payments to acute hospitals and community health centers from the uncompensated care pool to offset the costs of

services provided to uninsured residents. The division and the division of medical assistance may promulgate regulations to implement any of the provisions in this section.

The division, in consultation with the division of medical assistance and the executive office of health and human services, shall ensure that assessment liability to the fund and payments from the uncompensated care pool are structured in a manner that would secure for the General Fund the maximum allowable federal reimbursement under Title XIX, XXI or any successor federal statute.

In hospital fiscal year 2004, the total liability of all acute care hospitals to the fund shall be \$157,500,000 and the division of health care finance and policy shall calculate an assessment percentage rate by dividing \$157,500,000 by the projected annual aggregate private sector charges in the fiscal year for all acute care hospitals. Each acute care hospital's liability to the fund shall be equal to the product of the percentage rate and its "private sector charges".

In hospital fiscal year 2004, the total surcharge liability of surcharge payers to the uncompensated care trust fund shall be \$157,500,000. The surcharge amount for each surcharge payer shall be equal to the product of (a) the surcharge percentage and (b) amounts paid for services of an acute hospital or ambulatory surgical center by each surcharge payer. The division of health care finance and policy shall calculate the surcharge percentage by dividing \$157,500,000 by the projected annual aggregate "payments subject to surcharge", as that phrase is defined in section 1 of chapter 118G of the General Laws.

All title XIX federal financial participation revenue generated by hospital payments funded by the Uncompensated Care Trust Fund, whether the payments are made by the division of health care finance and policy or the division of medical assistance, shall be credited to the General Fund; provided however, that for fiscal year 2004, the comptroller shall transfer to the Uncompensated Care Trust Fund \$140,000,000 of the federal financial participation credited to the General Fund. In addition to the revenues deposited to the Uncompensated Care Trust Fund pursuant to this section, the division may expend up to \$28,000,000 from any unexpended balance in the trust fund at the close of fiscal year 2003 for purposes specified in this section.

All hospital payments made pursuant to this section are subject to federal approval and conditioned on the receipt of full federal financial participation. All such payments shall be established in accordance with Title XIX of the Social Security Act, or any successor federal statute, any regulations promulgated thereunder and the Commonwealth's Title XIX state plan.

The division of health care finance and policy shall calculate an annual payment liability from the uncompensated care pool to each acute hospital for fiscal year 2004. In determining the liability amount, the division shall (a) take into account such factors as each hospital's fiscal year 2002 payments from the pool, available funding in the pool, the financial burden of hospitals that provide proportionately the largest volume of free care, the situation of any free-standing pediatric hospital with a disproportionately low volume of Title XVIII payments; and (b) allocate the available funds in a manner that pays to each hospital a fixed percentage of its projected free care costs for hospital fiscal year 2004, as determined by the division using prior year data and considering the total funds available for the purpose; provided that the fixed percentage shall not be less than 85 per cent of free care costs as defined in section 1 of chapter 118G of the General Laws for the 2 disproportionate share hospitals with the highest relative volume of free care costs in hospital fiscal year 2002, and not less than 88 per cent of free care costs, as defined under section 1 of chapter 118G of the General Laws, for the 10 acute hospitals with the next highest relative volume of free care costs in said year. All other acute hospitals shall receive the highest possible percentage of free care costs given available remaining funds. The hospital fiscal year 2004 annual liability amount to each hospital shall be funded by the trust fund; provided, that the liability may be satisfied through either a disproportionate share payment or adjustment to Title XIX service rate adjustment payment, or combination thereof, in accordance with the terms provided for in an agreement entered into by any acute hospital and the division of medical assistance. The comptroller shall transfer without further appropriation funds to the division of medical assistance for the purpose of the Title XIX service rate adjustment payments.

The division of medical assistance shall maximize the use of other federally permissible funding mechanisms available for publicly-operated hospitals and hospitals with an affiliation with a publicly-operated health care entity to reimburse up to \$50,000,000 of uncompensated care costs at the hospitals using sources distinct from the funding made available to the trust fund under this section.

The division of medical assistance shall make payments from the uncompensated care pool for services provided by community health centers to uninsured residents in accordance with the relevant provisions of chapter 118G, and regulations promulgated under chapter 118G, in effect at the end of fiscal year 2003.

In hospital fiscal year 2004, up to \$2,500,000 shall be expended from the health care quality improvement trust fund to fund a contract with an independent auditor to examine costs and services being billed to the pool. The division of health care finance and policy shall submit quarterly reports to the house and senate committees on ways and means the results of said audits, the purpose of which shall be to examine the equity and long term viability of the prospective payment system, which is based upon historical spending and therefore locks in any inefficiencies or inequities inherent in the current system. For the purposes of said audits, allowable free care services shall be defined pursuant to chapter 118G of the General Laws.

In hospital fiscal year 2004, \$380,000,000 from the trust fund shall be credited to the uncompensated care pool for payments to acute hospitals provided for herein and \$28,000,000 from the trust fund shall be credited to the pool for payments to community health centers provided for in this section. The comptroller shall transfer, without further appropriation, \$160,000,000 from the trust fund to the division of medical assistance for the purposes of meeting payment obligations for services provided pursuant to section 679 of this act.

SECTION 645. Notwithstanding the provision of any general or special law to the contrary, the executive office of health and human services shall pursue administrative savings in the behavioral health program of the division of Medical Assistance. Such administrative savings shall seek to reduce duplication in the oversight of service provision, and shall include but not be limited to a reduction in the approval process of patients who need to be hospitalized; the development and implementation of self-management models for inpatient providers; and a recognition of national accreditation and Medicare status for licensure of inpatient behavioral health providers. Such Administrative savings shall also include initiatives to reduce the number of hospitalized children and adolescents who do not require inpatient hospital level of care, including but not limited to an expedited approval process for appropriate residential step-down programs; the enforcement of a no-eject policy for residential settings; allowance for out-of-state placements for extraordinary circumstances; and a requirement that the department of social services visit hospitalized youths in custody of the department within three business day of hospitalization. The executive office of health and human services shall also examine and make recommendations regarding whether there should be a financial assessment to offset the cost of providing hospital

care on state agencies who have clients in hospitals who no longer require hospital level care. The executive office of health and human services shall also examine and pursue appropriate models for increasing federal financial participation for the costs of the behavioral health program administrative vendor. The secretary of the executive office of health and human services shall report to the house and senate committees on ways and means and the committee on Medicaid the results of said administrative savings initiatives no later than December 1, 2003, which shall include a list of the administrative savings adopted and the projected amount of savings from such initiatives.

SECTION 646. Notwithstanding any general or special law to the contrary, the division of purchased services of the department of procurement which, under section 274 of chapter 110 of the acts of 1993, is responsible for determining prices for programs under chapter 71B of the General Laws, shall set all such prices in fiscal year 2004 at the same level calculated for fiscal year 2003 except the prices for those programs for Extraordinary Relief, as defined in 808 CMR 1.06(4). Programs for which prices in fiscal year 2003 were lower than the full amount permitted by the division of purchased services shall be permitted to charge in fiscal year 2004 the full price calculated for fiscal year 2003.

SECTION 647. Notwithstanding any general or special law to the contrary and in order to achieve efficiencies, the executive office of transportation and construction, the Massachusetts Turnpike Authority and the department of highways shall identify instances in which the authority can achieve costs savings and improved performance and service for the maintenance, snow and ice removal, repair, policing, use, administration and operation of interstate highway route 290, interstate highway route 391, and that portion of interstate highway route 91 from the interchange of interstate highway route 91 with interstate highway route 90 and continuing to the Connecticut border. For the period beginning October 1, 2003 and ending on December 1, 2006, the Massachusetts highway department shall enter into an interagency service agreement with the authority, herein, referred to as the "agreement" for the provision of maintenance, snow and ice removal, repair, policing, use administration and operation on such routes in order to achieve cost savings. The authority and the department shall submit a report to the joint committee on transportation and the house and senate committees on ways and means on or before January 1, 2005, detailing any and all cost savings to the commonwealth resulting from the agreement and or estimated to result from any proposed agreement to share employees, equipment and operational activities and functions in order to achieve operational efficiencies, improved performance or services and cost savings, including recommendations to establish a permanent and potentially expanded process for the transfer of certain responsibilities for interstate highway systems in the commonwealth from the highway department to the authority beginning December 1, 2006.

SECTION 648. Notwithstanding any general or special law to the contrary, the department of conservation and recreation may deposit into a trust account and expend federal reimbursement for out of state firefighting costs authorized under section 44 of chapter 138 of the acts of 1991.

SECTION 649. Notwithstanding any general or special law to the contrary, each sheriff receiving an appropriation in items 8910-1000, 8910-0102, 8910-0105, 8910-0107, 8910-0108, 8910-0110, 8910-0145 or 8910-0619 of section 2 shall file a report with the house and senate committees on ways and means no later than February 1, 2004 detailing the civil process fees charged by said sheriff's civil process office, all revenue received from said fees, the compensation structure for deputy sheriffs engaged in the service of process, and the expenditure of revenues generated from the collection of said fees. The report shall include, but not be limited to: the number of civil process transactions by nature and quantity performed by each civil process office or division annually; fee schedules per transaction for those transactions that, under section 8 of chapter 262 of the General Laws, the sheriff is provided discretion to set the fee, the organizational or corporate structure of the civil process office or division in relation to the sheriff's office; the role played by the state or county treasurer in the financial operation of the civil process office or division; an income statement for calendar year 2002; a breakdown of the types and amount of civil process served in 2002; a fee schedule for calendar year 2002, including a list of fees set at the sheriff's discretion; the number of full-time employees, part-time employees and independent contractors utilized by sheriffs for the service of civil process; the compensation structure used to compensate for such civil process employees and independent contractors; the amount and nature of sheriff's office resources used to support the civil process operation in Fiscal Year 2002 and Fiscal Year 2003, the amount and nature of civil process resources used to support the operations and functions of the sheriff's office in Fiscal Year 2002 and Fiscal Year 2003; the amount of civil process revenues, if any, deposited into the General Fund of the commonwealth pursuant to section 5 of chapter 34B of the General Laws; the amount of civil process revenues, if any, deposited with the county treasurer pursuant to section 22 of chapter 37 of the General Laws, the amount of revenues retained by said civil process division or sheriff's office and the statutory authorization relied upon to so retain that amount, a five-year history of all revenues collected from civil process fees; revenues collected per civil process transaction for fiscal year 2003 and; a comprehensive list of all expenditures associated with all revenues generated from the collection of civil process fees.

SECTION 650. Notwithstanding any general or special law, rule or regulation to the contrary, the department of public safety shall charge the following fees; (a) fees for annual elevator inspections shall be at least \$400 per inspection and (b) overtime elevator inspection fees shall be at least \$400 per inspection.

SECTION 651. Section 4 of chapter 701 of the acts of 1960, as most recently amended by section 7 of chapter 243 of the acts of 2002, is hereby further amended by adding the following paragraph:—

(k) To maintain the confidentiality of all information relating to specifically named customers using the authority's reservations system including, but not limited to, passenger names, home addresses, email addresses, telephone numbers, credit and account data and the dates and times of their reservations and sailings. Such information shall not be a public record, although it may be used and disclosed by the authority as necessary in connection with the appropriate conduct of its operations and in connection with law enforcement activities. The authority shall provide to a customer requesting any such information, all information that the authority has pertaining solely to that customer. The authority shall obtain the express, written consent of a customer before releasing customer information to a third party for commercial or noncommercial purposes.

SECTION 652.] Notwithstanding sections 40E to 40J, inclusive, of chapter 7 of the General Laws or any other general or special law to the contrary, the commissioner of capital asset management and maintenance, acting in consultation with the commissioner of

conservation and recreation and the city manager of the city of Lowell, may lease for an initial term of 25 years with an option for 10-year renewals to any person, corporation or organization the real property under the care, custody and control of the department of conservation and recreation located at 257 Father Morissette Boulevard in the center of Lowell, and known as the Tremont Yard Building under such terms and conditions as may be imposed by the commissioner of capital asset management and maintenance, acting in consultation with the commissioner of conservation and recreation and the city manager of the city of Lowell. The lease shall require that any improvements or development be in accordance with the rules and regulations of the Massachusetts Historical Commission and the Lowell National Historic Board, shall provide a substantial public benefit and shall provide that the lessee preserve the historic canal water power system features located within the property, provide an interpretive display and make available to the general public such historic features at such times and under such reasonable and appropriate terms and conditions as may be imposed by the commissioner of capital asset management and maintenance, acting in consultation with the commissioner of conservation and recreation and the city manager of the city of Lowell.

SECTION 653. Notwithstanding any general or special law or regulation to the contrary, the term defined in that certain Determination of Applicability issued by the department of environmental protection dated as of February 11, 1999 and referred to as WRP File No. JD 98-6009, issued pursuant to 310 C.M.R., shall be extended, and that such activities allowed thereunder shall continue to be permitted, until a date 18 months following the filing of a certificate by the city of Boston, acting by and through the Boston redevelopment authority, to the clerk of the city of Boston, with a copy of the department, declaring that said authority has identified a water-dependent user for the area of land defined in said determination. The foregoing shall serve as a declaration of variance allowing the continuation of the activities described in the determination defined in the preceding sentence, for such period of time as defined by this section.

SECTION 654. Notwithstanding subsection (d) of section 16 of chapter 71 of the General Laws, the Pioneer Valley regional school district may borrow an amount not to exceed \$75,000 in anticipation of additional state reimbursement of construction costs at the Warwick community school. The term of the loan shall not exceed 4 years, but, the amount of principal payment shall be required in the fiscal year after issuance. To the extent not inconsistent with the foregoing, the provisions of chapter 44 shall apply.

SECTION 655. Notwithstanding any general or special law, rule, or regulation to the contrary, the Massachusetts water resources authority retirement system board may grant creditable service to a present employee who is a member of the retirement system who served as an employee of the United States house of representatives and who has completed 10 or more years of membership service; but, the creditable service shall be determined by the board and the service shall not be credited until the member has paid into the Massachusetts water resources authority retirement system, in one sum or in installments, upon terms and conditions as the retirement board may prescribe, make-up payments equal to the payments made by the member while in the employment of the United States house of representatives, plus the accrued interest on the payments."

SECTION 656. Notwithstanding any general or special law to the contrary, the executive office for administration and finance shall develop and implement a \$1,100,000,000 per year capital program for fiscal year 2004. The Secretary of Administration and Finance will develop a capital spending plan for fiscal year 2004 that shall give priority to projects which are designed to promote economic stimulus, such as job growth by focusing capital spending in areas associated with job creation, including, but not limited to, road, housing, and other building construction and infrastructure creation. The Secretary shall report to the House and Senate Committees on Ways and Means on January 1, 2004 the details of the capital spending plan for FY04 and the provisions taken to ensure that job creation is the paramount consideration in how such capital funds are spent. The Treasurer shall report to the Committees on Ways and Means on March 1, 2004 the ratio of Commonwealth debt service on principal and interest to the amount of borrowing, showing how that ratio has changed over time and outlining different scenarios for how that ratio could change under different capital spending caps in the future. The provisions of this section shall be deemed severable, and if any part of this section shall be adjudged unconstitutional or invalid, such judgment shall not affect other valid parts of this section or this act.

SECTION 657. Notwithstanding any general or special law to the contrary, not more than 1 counsel shall be paid from the amounts appropriated in items 0321-1500 and 0321-1510 of section 2 for representation of a party in civil proceedings pending in a trial court pursuant to paragraph C of section 23, sections 24, 26, 39E to 39J, inclusive, of chapter 119 of the General Laws or section 3 of chapter 210 of the General Laws.

SECTION 658. Notwithstanding any general or special law to the contrary, the division of medical assistance, in this section called the division, and the division of health care finance and policy shall take any appropriate action to obtain the maximum amount of federal financial participation available for amounts paid to hospitals, determined by the division to be disproportionate share hospitals in accordance with Title XIX requirements, for free care costs of such hospitals. Such appropriate action may include, but shall not be limited to, the assessment on hospitals for their liability to the uncompensated care pool pursuant to chapter 118G of the General Laws. Such appropriate action shall include the establishment or renewal of an interdepartmental services agreement between the division and the division of health care finance and policy, which may authorize the division to make deposits into and payments from an account established for the purposes of this section within the Uncompensated Care Trust Fund, established in section 18 of said chapter 118G, or authorize the division of health care finance and policy to transfer uncompensated care fee revenue collected from hospitals pursuant to said chapter 118G or funds otherwise made available to the trust fund by the general court, to the division for the purposes of making disproportionate share adjustment payments to hospitals qualifying for such payments in accordance with the commonwealth's Title XIX state plan and relevant provisions of said Title XIX. The division may expend amounts transferred to it from the Uncompensated Care Trust Fund by the division of health care finance and policy under such interdepartmental services agreement without further appropriation. In no event shall the amount of money assessed upon each hospital exceed the hospital's gross liability to the Uncompensated Care Trust Fund as determined by the division of health care finance and policy pursuant to said section 18 of said chapter 118G. Any federal funds obtained as a result of said actions shall be deposited in the General Fund. The offices of the state treasurer and the comptroller shall establish such procedures as may be necessary to accomplish the purpose of this section, including procedures to facilitate the expeditious assessment, collection and expenditure of funds pursuant to this section.



SECTION 659. Notwithstanding any general or special law to the contrary, the comptroller shall transfer on or before June 30, 2004, without further appropriation, \$30,000,000 from the General Fund to the Uncompensated Care Trust Fund, established pursuant to section 18 of chapter 118G of the General Laws, for the purpose of making initial gross payments to qualifying acute care hospitals for the hospital fiscal year beginning October 1, 2003. The payments shall be made to hospitals prior to, and in anticipation of, the payment by hospitals of their gross liability to said fund. The comptroller shall transfer from the fund to the General Fund not later than June 30, 2004, the amount of the transfer authorized in this section and any allocation thereof as certified by the commissioner of health care finance and policy.

SECTION 660. Notwithstanding any general or special law to the contrary, the department of mental health, the department of public health, the division of medical assistance and the division of health care finance and policy shall take any appropriate action to obtain the maximum amount of federal financial participation available for amounts paid for low-income care costs at those mental health and public health facilities determined to be disproportionate share hospitals in accordance with the requirements of Title XIX of the Social Security Act. Such appropriate action may include, but shall not be limited to, the establishment of a separate account within the Uncompensated Care Trust Fund, established by section 18 of chapter 118G of the General Laws, for the purpose of making disproportionate share payment adjustments to such qualifying mental health and public health facilities under relevant division of health care finance and policy regulations and the Title XIX state plan on file with the centers for Medicare and Medicaid services. The division of medical assistance, the department of public health and the department of mental health may expend amounts transferred to them from such separate accounts within the Uncompensated Care Trust Fund without further appropriation. Any federal funds obtained as a result of actions taken pursuant to this section shall be deposited in the General Fund. The state treasurer and the comptroller shall establish such procedures as may be necessary to accomplish the purpose of this section, including procedures for the proper accounting and expenditure of funds under this section.

SECTION 661. Notwithstanding any general or special law to the contrary, the division of medical assistance may expend, subject to federal approval, an amount not to exceed \$125,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to the University of Massachusetts Memorial Hospital. The payments shall be established in accordance with Title XIX of the Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the commonwealth's Title XIX state plan and the terms and conditions of agreements reached with the division for such payments. No such funds shall be expended unless University of Massachusetts Memorial Hospital has executed the division of medical assistance's current Acute Hospital Request for Applications and Contract and the University of Massachusetts Medical School makes an intergovernmental funds transfer in an amount specified in an agreement, which amount shall be not less than 50 per cent of the Title XIX payment. All revenues generated pursuant to this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with subsection (o) of section 18 of chapter 118G of the General Laws. Not later than 60 days after such expenditure, the University of Massachusetts Medical School shall submit to the secretary of administration and finance and the house and senate committees on ways and means a report detailing the programs funded from revenue associated with this section.

SECTION 662. Notwithstanding any general or special law to the contrary, during fiscal year 2004 and including the accounts payable period for that fiscal year, the division of medical assistance may expend from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund an amount not to exceed \$590,000,000 for a program of MassHealth supplemental payments to certain publicly-operated entities providing Title XIX reimbursable services, directly or through contracts with hospitals under an agreement with the division relating to such payments and transfers as established in accordance with Title XIX of the Social Security Act or federal waivers thereof, federal regulations promulgated thereunder, the terms of the waiver under section 1115 of the Social Security Act, state law and the Medicaid state plan. The funds may be expended only for payment obligations arising during fiscal year 2004. Such expenditures shall reduce payments from the Uncompensated Care Trust Fund to such entities by an amount comparable to the net revenues received by such entities under this section. The division of medical assistance shall notify the house and senate committees on ways and means if such expenditures are rendered ineligible for federal reimbursement. All expenditures made pursuant to this section shall be reported quarterly to the house and senate committees on ways and means. Amounts so authorized for such expenditure shall be funded in part through intergovernmental transfers to the commonwealth of municipal or other nonfederal public funds. The Boston public health commission and the Cambridge public health commission shall transfer to said medical assistance intergovernmental transfer account not less than 50 per cent of the gross amounts of supplemental payments made by the division of medical assistance under managed care contracts with the commissions.

SECTION 663. Notwithstanding any general or special law to the contrary, the division of medical assistance may expend, subject to federal approval, an amount not to exceed \$32,000,000 from the medical assistance intergovernmental transfer account within the Uncompensated Care Trust Fund for Title XIX payments to certain acute care hospitals. The payments shall be established in accordance with Title XIX of the Social Security Act, or any successor federal statute, any regulations promulgated thereunder, the commonwealth's Title XIX state plan and the terms and conditions of agreements reached with the division for such payments. No such funds shall be expended unless the acute care hospital has executed the division of medical assistance's current Acute Hospital Request for Applications and Contract and unless a public entity is legally obligated to make an intergovernmental funds transfer in an amount specified in an agreement with such entity, which amount shall be not less than 50 per cent of the Title XIX payment. All revenues generated pursuant to this section shall be credited to the medical assistance intergovernmental transfer account and administered in accordance with subsection (o) of section 18 of chapter 118G of the General Laws. An accounting of such payments shall be reported quarterly to the house and senate committees on ways and means.

SECTION 664. (a) Notwithstanding any general or special law to the contrary, state agencies and direct and subcontracted providers of health-related services, including purchase-of-service providers, financed from appropriation items for any state agency, shall maximize Title XIX and all other federal, state and private health insurance coverage available to offset costs to the commonwealth. The agencies or providers shall collect information from clients, or from the parent or guardian of a minor receiving services, necessary to determine the extent to which clients may be eligible for medical assistance benefits under chapter 118E of the General

Laws or are beneficiaries of any health insurance policy. The agency or provider shall forward client information collected under this section to the division of medical assistance and such data shall only be used to match against available databases for the purpose of identifying all sources of potential payment for health services or health insurance coverage. The division shall return the results of any such data matches to the originating agency, which shall take the appropriate action to ensure that costs to the commonwealth are minimized. Such actions shall include, but not be limited to, the agency or provider billing or re-billing all verified third-party sources.

(b) The executive office of administration and finance may grant an agency or provider an exemption from this section for good cause.

(c) The executive office of health and human services and the operational services division within the executive office of administration and finance shall review regulations, contracting forms, service delivery reports and uniform financial reporting requirements to determine what changes are necessary for the successful implementation of this section.

SECTION 665. Notwithstanding any general or special law or rule or regulation to the contrary, a school district that transports or pays for the transportation of public school children in grades 7 to 12, inclusive, shall also provide transportation or payment for nonpublic school children in the same grades.

SECTION 666. Notwithstanding any general or special law to the contrary, funds appropriated in item 0526-0101 and 0526-0111 of section 2A of chapter 55 of the acts of 1999 shall be available for expenditure until June 30, 2005.

SECTION 667. Notwithstanding any general or special law to the contrary, the commissioner of insurance shall study the feasibility of levying a \$100 fee on all life and health insurance agents licensed by the commonwealth, receipts of which shall be payable into the General Fund. The commission shall report the results of the study by filing the same with the clerks of the house and senate no later than January 1, 2004.

SECTION 668. "All school facilities' capital or major reconstruction projects, which have received final municipal approval by a favorable vote by the legislative body of any municipality, subject to its charter, on or before June 30, 2003, shall be placed on the priority waiting list for reimbursement pursuant to section 10 of chapter 70B of the General Laws at the rate for which it would have been eligible on January 31, 2003. The priority categories set forth in section 8 of said chapter 70B shall not be used to restrict any eligible project from placement on the priority list but may be used to rank new projects for placement on the priority list.

Notwithstanding any general or special law to the contrary, the board of education shall not accept any application for the school building assistance program established in said chapter 70B of the General Laws, until after July 1, 2007.

SECTION 669. Notwithstanding paragraph (a) of subsection (xxiii) of section 9 of chapter 211B of the General Laws, or any other general or special law to the contrary, the chief justice for administration and management may, from the effective date of this act through April 30, 2004, transfer funds from any item of appropriation of any trial court department to any other item of appropriation within the trial court department. Said transfers shall be made in accordance with schedules submitted to the house and senate committees on ways and means. Said schedule shall include the following: (1) the amount of money transferred from one item of appropriation to another; (2) the reason for the necessity of such transfer; and (3) the date on which said transfer is to be completed. No such transfer shall occur until 10 days after the revised funding schedules have been submitted in written form to the house and senate committees on ways and means.

SECTION 670. Pursuant to sections 25 and 26 of chapter 118G of the General Laws, the amount of the fiscal year 2004 assessment imposed by those sections shall be sufficient in the aggregate to fund the fiscal year 2004 expenditures detailed in section 536, taking into account federal financial participation made available by such expenditures. The division of health care finance and policy may adjust the assessment by not more than 3 per cent of the total amount specified in order to comply with state and federal laws. The division may also specify by regulation appropriate policies and procedures to provide for the determination and periodic redetermination of assessment rates, including any requirements for data reporting that the division determines necessary to monitor revenues and compliance.

SECTION 671. The secretary of health and human services shall conduct or direct studies on policy areas necessary for the continuing implementation of the reorganization of health and human services in order to realize the greatest benefits of the reorganization in terms of administrative efficiency, improved service delivery and cost savings. The secretary shall report the results of these studies and accompanying recommendations to the house and senate committees on ways and means and the joint committees on human services and elderly affairs and state administration no later than October 1, 2003. Policy areas to be studied will include, but not be limited to, the following areas:

- a) The desirability and feasibility of using Aging Service Access Points (ASAPs) to screen disabled individuals seeking placement in nursing homes for suitability for community-based care.
- b) The purchase of service contract system used to deliver services to clients of the health and human services secretariat. This study shall include, but not be limited to, an examination of the costs and benefits of standardizing the purchase of service system, developing a rate-setting methodology that identifies all costs of delivering services, instituting a cost-benefit analysis system to determine the financial impact of mandated services, indexing multi-year contracts, and switching to a client rather than service-based model of procuring services. This study will examine the impact of these possibilities on the quality of client service provided, the ability of providers to supply necessary services and receive adequate reimbursement, and the cost to the commonwealth.
- c) The co-location of offices of different health and human services agencies within the same building. This study shall include, but not be limited to, the cost savings and cost efficiencies expected to be achieved through office co-location, the impact of office co-location on integrated service provision to clients receiving services from multiple health and human services agencies, the interaction between co-location of offices and the development of standardized health and human service agencies service areas, and the impact of co-locating offices on service accessibility, particularly for those clients in areas from which an agency office will be moved. This study shall also include a list of all office consolidations and closures planned by the executive office to take place before the end of fiscal year 2005.

- d) The elimination of duplicative licensing requirements imposed on health and human service providers by agencies within the secretariat. This study shall include, but not be limited to, an evaluation of the costs and benefits of centralizing licensing functions and standardizing licensing requirements for health and human service providers.
- e) The consolidation of abuse investigation operations. This study shall include, but not be limited to, an evaluation of the costs and benefits of consolidation with regards to expertise and subject familiarity and the incorporation of information generated by investigations into the other continuing activities of health and human service agencies.
- f) The standardization of income verification and re-verification procedures for state programs that are means tested. This study shall include, but not be limited to, an evaluation of the accuracy of income verification and re-verification procedures used by all agencies, the burden level placed on recipients by these procedures, and the cost and benefits of standardizing these practices across all health and human service agencies.

SECTION 672. Notwithstanding any general or special law to the contrary, the board of higher education shall, in consultation with the presidents and chancellors of the Massachusetts state universities, colleges, and community colleges, or their designees, conduct a study of the feasibility of creating courses at the request of businesses residing in Massachusetts, customized to address the special workforce needs of said businesses, for which said businesses will pay the state institution providing the educational service a tuition fee to be set by an agreement between said institution and said businesses. The board shall solicit opinions from state business leaders, including, but not limited to, executives, managers, and other business officials who have a vested interest in the effective education of the state workforce. The board shall issue a report to the joint committees on education, arts and humanities, the joint committee on commerce and labor, and the clerks of the house of representatives and the senate, no later than March 1, 2004, which shall state the findings of the board; provided, that said findings shall include: the cost effectiveness for business to utilize state higher education resources for the education and training of their workforce; estimates of the tuition revenue generated by providing customized courses for the education and training of the employees of state businesses, which would be available for the supplementation of the operating budget and endowment of a given state institution of higher education; a detailed synopsis of the proposed subject matter and structure of courses that could be created at the request of businesses for the purpose of workforce education and training; testimonies from state business leaders regarding their interest in utilizing state higher education resources for the purpose of workforce education and training; and any other item the board feels would provide an accurate representation of the feasibility of such policy. The board shall also consider in the course of its study, and include in its report, as provided in this section, the structure of customized business courses provided by business graduate schools for large blue chip and other companies, which are generating hundreds of thousands of dollars in additional revenue for said business graduate schools. The board shall also consider in the course of its study, and include in its report, as provided in this section, the feasibility of customized courses for the purpose of workforce education and training for workers of all skill levels, across all industries. The board shall consider said study and said report, as provided in this section, to be an important initiative in the state strategy to better integrate the workforce education and training needs of state workers and businesses with the extensive educational resources of the institutions of higher education of the Commonwealth, and shall pursue this study, as provided in this section, and follow the intent of this section, with all appropriate due diligence. This study shall be in addition to the community college workforce training incentive grant program, authorized in item 7066-0015 of section 2 of this act.

SECTION 673. A person who has been in the state retirement system for more than 35 years, with at least 10 or more of those years in the employment of the Massachusetts Water and Resources Administration; who, in the course of his state employment was exposed to asbestos or other hazardous materials; and who has been diagnosed with an extraneously cancer related illness as well as an extraneously cardio-vascular cardiac related illness, shall be eligible for early retirement with surviving spouse benefits at a compensation rate equivalent to his current salary, if the individual makes application for an early retirement on or before December 31, 2003.

SECTION 674. Notwithstanding the provisions of any general or special law to the contrary, the division of health care finance and policy shall conduct a study on determining the rate of payment for those pharmacies that dispense prescribed drugs to nursing homes, assisted living facilities, hospice programs and similar institutional sites of care, those pharmacies that dispense sterile intravenous drugs ordered by physicians to patients in their homes, and all other pharmacies. Said division shall submit a report on said study not later than October 1, 2003 to the house and senate committees on ways and means and shall recommend an accurate rate for said pharmacies.

SECTION 675. Notwithstanding the provisions of any general or special law to the contrary, each state and community college shall require that all students enrolled in 9 or more credits submit written documentation evidence of adequate medical insurance coverage. A list of the names, addresses, and social security numbers of all students indicating any form of MassHealth insurance coverage still be forwarded to the Division of Medical Assistance for evaluation of alternative insurance options. The Division may assist in the purchase of group health insurance, including insurance offered through a college or university, on behalf of an eligible MassHealth member, provided that the Division has determined that the purchase of such insurance is cost-effective and will be provided at no cost to the Commonwealth. The Division shall deny liability to any adult who refuses to enroll in other available insurance.

SECTION 676. Notwithstanding any general or special law to the contrary, the commissioner of education may accept an application for an emergency situation capital school construction grant for the city of Springfield, under chapter 70B of the general laws and may place the project on the priority waiting list, so-called, at the reimbursement rate in effect on June 30, 2003. For the purposes of this section, an emergency situation shall consist of (i) a school that has been determined to be underperforming by the board of education and has lost or is at risk of losing its accreditation; (ii) a determination by the commissioner that such project is needed to address significant deficiencies which cannot be cost effectively addressed through major reconstruction or repair work. The application must meet all requirements of chapter 70B and the regulations promulgated therefore.

SECTION 677. The coordinated prescription drug procurement plan established by section 16 shall be developed and implemented within 180 days of the effective date of this act.

SECTION 678. There is hereby established a Fernald Developmental Center Land Reuse Committee. The committee shall include the mayor of the city of Waltham or his designee, the planning director of the city of Waltham, the commissioner of the Massachusetts department of mental retardation, the ward councilor from the city of Waltham representing the ward in which the campus is located, 4 citizens of Waltham to be appointed by the mayor of the city of Waltham, the state representative from the ninth Middlesex house district, the state representative from the tenth Middlesex house district, and the senator from the third Middlesex senate district. The commissioner of the division of capital asset management and maintenance shall appoint a representative from the division to be a non-voting member of the committee, and who shall attend each of the meetings of the committee. The committee shall be responsible for representing the interests of the town in all deliberations with the division of capital asset maintenance and management about the reuse and future development of the developmental center property. The committee shall, with the assistance of the division, develop a Comprehensive Reuse Consensus Plan for Fernald Developmental Center State Property, which shall provide a detailed description, by parcel, of how the property is to be developed upon closure of the Fernald campus. The plan shall include a description of any potential environmental degradation of the property, along with a proposal for environmental remediation, and a proposed cost for the cleanup, including, but not limited to, any building demolition required on the site. The goals of the plan may include, but shall not be limited to, preservation of open space, creation of affordable housing, development of new business, the creation of recreational opportunities, the development of new community residences for the mentally retarded consumers of Fernald Center, and any other applicable community priorities. Upon approval by the reuse committee, the plan shall be presented to the Waltham city council for approval, and, if endorsed by majority vote of the council, filed with the division of capital asset management and maintenance. The plan shall also be submitted to the chairs of the house and senate committees on ways and means, and to the house and senate chairs of the joint committee on state administration, along with copies of authorizing legislation, if any, necessary to effectuate the provisions of the reuse plan. If the reuse plan provides for the conveyance of land from the state to the city of Waltham, the legislation shall provide that the price paid for such parcel be for the full and fair market value of the property determined by independent appraisal, for the uses described in the plan, including, but not limited to, any restrictions or and requirements imposed by the plan. The reuse committee shall meet as necessary to complete said reuse plan, but shall not meet less than once per month.

SECTION 679. Notwithstanding the provisions of any general or special law to the contrary, the property located in Norfolk, Massachusetts, as identified in chapter 519 of the acts of 1980 and formerly known as the Department of Public Health Hospital, Pondville Hospital, is hereby added to the list of properties for which said department has responsibility, pursuant to chapter 21E of the general laws or any other applicable general or special law, for ensuring that all needed environmental remediation and related work is performed and that all contamination is eliminated from said property.

SECTION 680. Notwithstanding any general or special law to the contrary, the executive office of administration and finance in cooperation with the executive office of environmental affairs and the department of environmental protection, shall meet its obligations under the biosolids improvement project for the Greater Lawrence sanitary district by June 30, 2006.

SECTION 681. Notwithstanding any general or special law to the contrary, no funds from the Health Care Quality Improvement Trust Fund or appropriated in items 4000-0600 of any general appropriation act shall be used directly or indirectly by a recipient nursing home or health care facility for political contributions, lobbying activities, entertainment expenses or efforts to assist, promote, deter or discourage union organizing. As a condition of receiving monies from the fund or item 4000-0600, a nursing home or health care facility shall provide a certification to the division of medical assistance that no funds shall be used for such activities. If the division determines that a recipient of monies from the fund or item 4000-0600 has spent such monies in violation of this section, the recipient nursing home or health care facility shall be required to document the cost of such activity. The division of medical assistance shall conduct an investigation or audit if a complaint is filed by any person alleging a violation of this section. The division shall consider that there is a rebuttable presumption that such activities were funded in part from such monies and shall require the recipient nursing home or health care facility to provide all appropriate information and documentation showing that no such monies were used for activities in violation of this section. An expense, including legal and consulting fees and salaries of supervisors and employees, incurred for research for, preparation, planning or coordination of, or carrying out an activity to assist, promote or deter union organizing shall be treated as paid or incurred for that activity. An expense incurred in connection with:

- (1) addressing a grievance or negotiation or administering a collective bargaining agreement;
- (2) performing an activity required by federal or state law or by a collective bargaining agreement; or
- (3) obtaining legal advice about rights and responsibilities under federal or state law shall not be treated as paid or incurred for activities to assist, promote, deter or discourage union organizing.

Monies spent in violation of this section shall be reimbursed to the fund or the division of medical assistance as appropriate.

SECTION 682. Notwithstanding any general or special law to the contrary, the division of medical assistance shall seek any federal waivers and make any regulatory changes necessary to establish a program of preventive and primary care for chronically unemployed persons who are not receiving unemployment insurance benefits and who are not eligible for medical assistance but who are determined by the division to be long-term unemployed, provided that such persons meet the eligibility requirements established under the MassHealth program established in section 9A of chapter 118E, provided that such persons' financial eligibility shall not exceed 100 per cent of the federal poverty level. Such eligibility requirements shall not exclude from eligibility persons who are employed intermittently or on a non-regular basis. The provision of care to such persons under this program may, taking into account capacity, continuity of care and geographic considerations, be restricted to certain providers including community health centers, hospital-licensed health centers, mental health providers, and, where necessary to ensure access, larger primary group practice settings. Funding for the program may not exceed \$160,000,000 in hospital fiscal year 2004. Enrollment in the program shall not exceed 36,000 persons unless the division determines that there is adequate funding to increase enrollment and, 60 days prior to enrolling any person beyond the 36,000 cap, notifies and receives approval from the house and senate committees on ways and means. The division shall implement the program on or before October 1, 2003 and shall be authorized herein to operate until Sept 30, 2004, provided, however, that implementation of the program shall be contingent upon any required federal approval. The division shall collect information on each person enrolled in said program and shall report quarterly to the house and senate committees on ways and means the following: (1) the number of persons enrolled, (2) the geographic distribution of said persons, (3) the location of service of each

billable claim delineated by enrollee, (4) the type of services provided to enrollees, (5) enrollment patterns delineated by enrollee including but not limited to, coverage start date, coverage end date, any transfer of coverage from the Limited Medical Assistance program to other MassHealth programs, other state funded programs, or federally funded programs and (6) data collected on utilization on emergency room visits as compared to visits to community health centers and other lower-cost sites of care. Said division shall account for all spending on said program on the Massachusetts management accounting reporting system or MMARS, so called.

SECTION 683. Chapter 15A of the General Laws is hereby amended by striking out section 4, as appearing in the 2000 Official Edition, and inserting in place thereof the following section:—

Section 4. (a) The board of higher education, hereinafter referred to as the board, shall be composed of 11 voting members, consisting of the commissioner of education, ex officio, 7 members appointed by the governor reflecting regional geographic representation, and 3 members chosen to represent public institutions of higher education. Of the appointed members, at least 1 shall be a representative of organized labor, at least 1 shall be a representative of the business community, and 1 shall be a member whom the governor shall choose from among not more than 3 full-time undergraduate students who shall be nominated, and who are currently enrolled in a public institution set forth in section 5. Nominated students shall have maintained satisfactory academic progress as determined by the policy of the institution at which such student is enrolled. Nominations shall be submitted by student members of the board of trustees for each such institution who, for the purpose of this section, shall be referred to as the student advisory committee. Such nominations may include, but not be limited to, students elected as trustees in accordance with the provisions of section 21. Of the 3 members chosen to represent public institutions of higher education, 1 shall be a member of the board of trustees of the state university selected by the chair of the board of trustees for the university, 1 shall be a member of a board of trustees of a state college chosen by vote of the chairs of the boards of trustees of each of the state colleges, and 1 shall be a member of a board of trustees of a community college chosen by vote of the chairs of the boards of trustees of each of the community colleges. For the purposes of this section the Massachusetts College of Art and the Massachusetts Maritime Academy shall be deemed to be state colleges. There shall be an office of the board consisting of a chancellor and employees appointed by the board.

(b) Members of the board shall be appointed to serve 5-year terms, except that the undergraduate student members shall be appointed annually to serve terms of 1 year commencing initially upon appointment by the governor and expiring on April 30 and each year thereafter commencing on May 1 and expiring on April 30 as long as the member remains a full-time undergraduate throughout his 1-year term. Within 3 consecutive years, the student appointee shall in the first year be a student attending the state university, in the second year, shall be a student attending a community college and, in the third year, shall be a student attending a state college. This cycle shall repeat. Each of the student government associations at each of the public institutions may submit to the student advisory committee an individual nominated to be the undergraduate student member of the board. All guidelines for procedures and deadlines for the selection process of the undergraduate board members shall be established by the student advisory committee, except as provided in this section. No member shall be appointed for more than 2 consecutive terms, except that a student member may serve for only 1 term. Upon expiration of the term of office of a member, a successor shall be appointed in like manner. A vacancy shall be filled by the governor for the remainder of the term, except that if a member chosen to represent the public institutions of higher education ceases to be a member, the resultant vacancy shall be filled for the remainder of the term by the chairs of the boards of trustees of the public institutions in the same manner as in paragraph (a). The chairperson of the board, who shall be appointed by the governor, shall notify the governor whenever a vacancy exists. The board shall have an executive committee and such other committees as the board may from time to time establish.

(c) The members of the board shall serve without compensation but shall be reimbursed for all expenses reasonably incurred in the performance of their duties.

(d) No member of the board shall be principally employed within the public higher education system of the commonwealth. Not more than one third of the members shall be principally employed by the commonwealth. A member of the board shall cease to be a member if such member ceases to be qualified for appointment or if he is absent from 5 regularly scheduled meetings during a calendar year.

(e) A person affiliated with an independent institution of higher education shall be eligible for membership on the board. No member of the board shall be found to be in violation of section 6 of chapter 268A for conduct which involves his participation, as a member of the board, in a particular matter before the board which may affect the financial interest of an independent institution of higher education with which he is affiliated; provided, however, that the member, his immediate family or partner has no personal and direct financial interest in the particular matter; and provided further, that such affiliation is disclosed to the board and recorded in the minutes of the board.

(f) The board shall meet 6 times per year, and at least once every 2 months, omitting meetings in the months of July and August; the chair may call additional meetings at other times.

(g) Six members of the board shall constitute a quorum and the affirmative vote of 6 members shall be necessary for any action taken by the board.

(h) All members of the board appointed by the governor shall be appointed according to section 18B of chapter 6.

SECTION 684. Section 9 of said chapter 15A of the General Laws is hereby amended by striking out, in line 16, as so appearing, the words “colleges, branches or institutions as it deems advisable” and inserting in place thereof the following words:— branches or institutions as it deems advisable. If, in the opinion of the board, a college campus should be closed or consolidated, the board shall submit such proposal to the secretary of administration and finance, the house and senate chairs of the joint committee on education, arts, and humanities, and the chairs of the house and senate ways and means committees. The joint committee on education, arts, and humanities may, within thirty days of the receipt of a proposal, hold a public hearing on its merits. The council shall not close a college without the authorization of the general court.

SECTION 685. Said section 9 of said chapter 15A is hereby further amended by striking out, in line 20, as so appearing, the word “commonwealth” and inserting in place thereof the following words:— commonwealth. Such analysis shall include, but not be limited to, an analysis of state and local labor market trends and the economic development plans of the commonwealth conducted in cooperation with the secretary of economic development and his staff.

SECTION 686. Section 15 of said chapter 15A, as appearing in the 2000 Official Edition, is hereby amended by striking out the third and fourth paragraphs and inserting in place thereof the following paragraph-

The board of trustees of the university shall receive its appropriation directly, in one sum. Funds appropriated for the state college system and the community college system shall be disbursed by the board to each board of trustees pursuant to the line item requirements of the general appropriation act.

SECTION 687. Chapter 15A of the general laws is hereby amended by adding, after section 7, the following new section:—

Section 7A. (a) In order to promote accountability for effective management and stewardship of public funds and to achieve and demonstrate measurable educational outcomes, the institutions shall certify achievement of public higher education accountability objectives through a performance measurement system. The board of higher education, in this section called the board, in consultation with the institutions, shall develop the system, including specific performance measures, with which to evaluate the institutions and with which to compare them with peer institutions with similar missions in other states. The board may conduct regional public hearings on the measures proposed to be incorporated into the system.

(b) The board, in consultation with the presidents of the state and community colleges, shall identify peer institutions for the state and community colleges. The higher education accountability objectives shall include, but not be limited to, the following: (1) making public higher education more affordable; (2) improving student access and academic achievement; (3) recruiting qualified students; (4) responding to specific needs of the workplace, as defined by business and labor; (5) providing policy research addressing the needs of the commonwealth and local communities; (6) ensuring cost-effective use of resources at each institution and across all institutions, and manage campuses as efficiently as possible; (7) promoting collaboration among the campuses and with the private sector; (8) supporting kindergarten to grade 12 education programs; and (9) maximizing fundraising from private sources.

(c) In order to measure the achievements and expected outcomes of the commonwealth's system of public higher education, the board shall form, not later than September 1, 2003, separate task forces for the state and community college segments consisting of presidents or their appointees and members of boards of trustees of the institutions.

(d) For each of the accountability objectives, the board, in consultation with each task force, shall establish and annually evaluate intelligible performance measures and identify data items that shall be obtained for each performance measure. Data shall be collected and analyzed on a campus, segmental and systemwide basis; provided, however, the board in consultation with the campuses shall establish definitions for all data items used in the performance measurement system.

(e) In order to achieve the accountability objectives of cost-effective use of resources and efficient fiscal management of the institutions, each task force shall match or improve upon standards established by National Association of College and University Business Officers. The performance measurement system shall be regularly evaluated and revised by the board in consultation with the institutions to ensure that it continues to measure the achievements and expected outcomes of the commonwealth's public higher education system. Accountability objectives, performance measures and data items shall be submitted to the house and senate committees on ways and means and the joint committee on education, arts and humanities.

(f) The board shall use accountability objectives, performance measures and expected outcomes to conduct an annual evaluation of the performance of each institution. An institution's failure to meet a reasonable number of the accountability objectives, as determined by the performance measures, within a given year shall be deemed underperforming. If the board finds an institution to be underperforming, the institution's board of trustees shall develop and implement a performance improvement plan and timetable to be approved by the board of higher education. Each plan shall be submitted to the house and senate committees on ways and means and the joint committee on education, arts and humanities. If the institution fails to achieve the agreed to targeted improvements and timeline, funds appropriated for the underperforming institution in the following fiscal year shall be disbursed by the board of higher education to the institution's board of trustees subject to the board's approval. The board shall not be prevented from amending the institutional allocation of an underperforming institution.

(g) Not later than January 1 of each year, the chancellor of higher education shall submit to the governor and the general court a condition of higher education report which details the condition and performance of each public higher education institution.

(h) The board shall structure its staff and financial resources to provide technical assistance to institutions to help them identify problems and assist them with formulating and implementing plans to meet the accountability measures.

(i) The board of trustees of the University of Massachusetts shall develop a performance measurement system for the university, in consultation with the board of higher education. The objectives of the performance measurement system shall be: (1) to promote student access and affordability; (2) to recruit qualified undergraduate and graduate students; (3) to promote student success; (4) to pursue theoretical and applied research, scholarship and creative activity; (5) to contribute to the economic development of the commonwealth; (6) to support kindergarten to grade 12 education programs; (7) to provide policy research addressing the needs of the commonwealth and local communities; (8) to ensure cost-effective use of resources; and (9) to maximize fundraising from private sources. The system shall include performance indicators for each of these purposes and identify data to be used in measuring performance. The board of trustees may compare institutional performance with the performance of peer institutions with similar missions as part of its evaluation process.

(j) The university shall adopt an implementation plan and timetable for meeting performance measures established by the system. The board of trustees shall report annually to the governor and the general court on the results of the performance measurement system, including recommendations for improvements to the system and for achieving improved levels of performance where necessary.

SECTION 688. Section 294 of chapter 43 of the acts of 1997 is hereby repealed.

SECTION 689. Notwithstanding any general or special law to the contrary, not more than 1 counsel shall be paid from the amounts appropriated in items 0321-1500 and 0321-1510 of section 2 for representation of a party in civil proceedings pending in a trial court pursuant to paragraph C of section 23, sections 24, 26, 39E to 39J, inclusive, of chapter 119 of the General Laws or section 3 of chapter 210 of the General Laws.

SECTION 690. There shall be a special commission consisting of 2 members of the judiciary committee of the house of representatives, 2 members of the judiciary committee of the senate, the chair of the house committee on ways and means or his designee, the chair of the senate committee on ways and means or his designee, 1 justice of the district court department of the trial

court, 1 criminal defense attorney, the president of the Massachusetts Academy of Criminal Defense Lawyers or his designee, the executive director of the committee for public counsel services or his designee, and the president of the Massachusetts Bay Association or his designee, for the purpose of making an investigation and study of the standards by which indigent counsel are appointed in the commonwealth, including but not limited to, the criteria by which justices determine eligibility for indigent counsel, the compensation of indigent counsel and the financial status of any defendant under consideration for appointment of counsel. The commission shall report to the general court the results of its investigation and study, and its recommendations, if any, together with drafts of legislation necessary to carry such recommendations into effect by filing the same with the clerk of the house of representatives on or before the first Wednesday in November, 2003.

SECTION 691. Notwithstanding any general or special law to the contrary, subsection (b) of section 3 of chapter 29D of the General Laws shall not apply in fiscal years 2004 and 2005.

SECTION 692. Said section 22 of said chapter 15A, as so appearing, is hereby amended by striking out, in lines 56 and 57 the words “, initially, by January first, nineteen hundred and ninety-three and every two years thereafter” and inserting in place thereof the following words: - annually to the board of higher education according to a schedule determined by said board in consultation with the board of trustees. (p) The board of trustees of an institution with the potential to expand its mission, profile, and orientation to a more regional or national focus may submit to the board of higher education, for its approval, a 5-year plan embracing an entrepreneurial model which leverages that potential in order to achieve higher levels of excellence pursuant to section 7.

SECTION 693. Notwithstanding any general or special law to the contrary, the terms of all appointed members of the board of higher education shall expire on August 30, 2003. Commencing on September 1, 2003, and continuing for the terms hereinafter stated and until successors are appointed, the board of higher education shall include among its appointed members not fewer than 7 persons appointed by the governor from among the members of the board of higher education serving as of June 30, 2003. Of the appointed members of said board, a student member shall be appointed for a term to expire May 30, 2004. Of the remaining appointed members, 1 shall be appointed for a 1-year term, 1 shall be appointed for a 2-year term, 1 shall be appointed for a 3-year term, 2 shall be appointed for a 4-year term, and 1 shall be appointed for a 5-year term. The member chosen to represent the state university shall be elected for a 2-year term. The member chosen to represent the state colleges shall be elected for a 3-year term. The member chosen to represent the community colleges shall be elected for a 4-year term. The term of the chairperson of the board of higher education shall continue under the provisions which existed prior to the effective date of this act.

SECTION 694. Notwithstanding any general or special laws to the contrary., wherever in sections 160 to 168A, inclusive, of chapter 149 of the General Laws the word "commissioner" to "the director of workforce development" "department" to "the department of workforce development".

SECTION 695. Notwithstanding any general or special law to the contrary, all judges currently acting as a presiding judge in any of the divisions of the Boston municipal court department which were, prior to the passage of this act, formerly under the jurisdiction of the district court department of the trial court shall continue performing such duties and responsibilities until such time as their term expires. All grant or community service programs which were funded in those divisions of the Boston municipal court department that were, prior to the passage of this act, under the jurisdiction of the district court department shall continue receiving such funding as part of a cooperative agreement between said departments. Notwithstanding any general or special law to the contrary, the chief justice for administration and management, the chief justice of the district court division of the trial court, and the chief justice of the Boston municipal court department shall, on or before August 1, 2003, enter into agreements regarding the assignment of judges between the district court department and the Boston municipal court department in order to preserve the continuity of the current judicial assignments of those judges serving in courts other than the court to which such judges were originally assigned and to minimize the reassignment of such judges to other courts following the passage of this act.

SECTION 696. Notwithstanding any general or special law to the contrary, or any legal memoranda or other type of agreement entered into by and among any state or public agencies, authorities or bodies corporate and politic prior to the effective date of this act, the division of urban parks and recreation in the department of conservation and recreation shall assume the sole responsibility for the delivery and the performance of services for all maintenance and repair work, including snow and ice control, for the boulevards, parkways, roads, ways and bridges, including drawbridges, previously under the care, custody and control of the metropolitan district commission. No lands, facilities, boulevards, parkways, roads, ways, bridges, personnel, equipment or material under the care, custody and control of the department within the urban parks district and no duties mandated by law to be undertaken and performed by the department within the urban parks district, may be transferred either in whole or in part to any other state or public agency or to any other entity, without the express prior approval of the general court. Nothing in this section shall be construed to prohibit the department from entering into cooperative agreements with municipalities to share joint management and maintenance responsibilities for areas situated within the urban parks district; provided, however, that such agreements shall not pledge or commingle funds or funding sources, but shall instead designate specific services to be provided by each entity within the limits of its authority. Nothing in this section shall be construed to prohibit the department from entering into agreements with individual corporate or other partners from within the private sector to promote the donation of services or funds or other assistance to the department; provided, however, that the department shall at all times exercise its statutory duties in managing and supervising the delivery of such services, funds or assistance.

SECTION 697. Unless otherwise provided in this act, wherever the name of transferor agency as defined in section 532, or any abbreviation thereof, appears in any general or special law or in any order, rule or regulation or other such document related to the exercise of such powers, or the performance of such duties, or to such custody and control as are vested in those departments, such name shall mean and shall be construed as referring to each respective transferee agency identified in section 532.

SECTION 698. (a) Notwithstanding any general or special law to the contrary, this section shall facilitate the orderly transfer of the employees, proceedings, rules and regulations, property and legal obligations of the following functions of state government from the transferor agency to the transferee agency, defined as follows:

- (1) the functions of the department of food and agriculture, as the transferor agency, to the department of agricultural resources, as the transferee agency;
- (2) the functions of the metropolitan district commission, as the transferor agency, to the division of urban parks and recreation in the department of conservation and recreation, as the transferee agency;
- (3) the functions of the department of environmental management, as the transferor agency, to the department of conservation and recreation, as the transferee agency;
- (4) the functions of the division of environmental law enforcement in the department of fisheries, wildlife and environmental law enforcement, as the transferor agency, to the office of environmental law enforcement in the executive office of environmental affairs, as the transferee agency;
- (5) the functions of the division of forests and parks in the department of environmental management, as the transferor agency, to the division of state parks and recreation in the department of conservation and recreation, as the transferee agency;
- (6) the functions of the department of fisheries, wildlife and environmental law enforcement, as the transferor agency, to the department of fish and game, as the transferee agency;
- (7) the functions of the division of watershed management in the metropolitan district commission, as the transferor agency, to the division of water supply protection, as the transferee agency;
- (8) the functions of the division of water resources in the department of environmental management, as the transferor agency, to the division of water supply protection, as the transferee agency;
- (9) the functions of the office of administrative appeals in the department of environmental protection, as the transferor agency, to the office of administrative appeals in the executive office of environmental affairs, as the transferee agency;
- (10) the functions of office of the chief medical examiner, as the transferor agency, to the department of forensic sciences, as the transferee agency;
- (11) the functions of the state police crime laboratory, as the transferor agency, to the department of forensic sciences, as the transferee agency;
- (12) the functions of the division of employment and training, as transferor agency, to the division of workforce development, excluding the oversight of the unemployment insurance fund and the medical security trust fund;
- (13) the functions of the division of medical assistance pursuant to section 352, as the transferor agency, to the office of elder services, as the transferee agency; and
- (14) the functions of the division of health care finance and policy pursuant to section 348, as the transferor agency, to the executive office of health and human services.

(b) Subject to appropriation, the employees of each transferor agency, including those who immediately before the effective date of this act hold permanent appointment in positions classified under chapter 31 of the General Laws or have tenure in their positions as provided by section 9A of chapter 30 of the General Laws or do not hold such tenure, or hold confidential positions, are hereby transferred to the respective transferee agency, without interruption of service within the meaning of said section 9A of said chapter 31, without impairment of seniority, retirement or other rights of the employee, and without reduction in compensation or salary grade, notwithstanding any change in title or duties resulting from such reorganization, and without loss of accrued rights to holidays, sick leave, vacation and benefits, and without change in union representation or certified collective bargaining unit as certified by the state labor relations commission or in local union representation or affiliation. Any collective bargaining agreement in effect immediately before the transfer date shall continue in effect and the terms and conditions of employment therein shall continue as if the employees had not been so transferred. The reorganization shall not impair the civil service status of any such reassigned employee who immediately before the effective date of this act either holds a permanent appointment in a position classified under chapter 31 of the General Laws or has tenure in a position by reason of section 9A of chapter 30 of the General Laws. Notwithstanding any general or special law to the contrary, all such employees shall continue to retain their right to collectively bargain pursuant to chapter 150E of the General Laws and shall be considered employees for the purposes of said chapter 150E. Nothing in this section shall be construed to confer upon any employee any right not held immediately before the date of said transfer, or to prohibit any reduction of salary grade, transfer, reassignment, suspension discharge layoff or abolition of position not prohibited before such date.

(c) All petitions, requests, investigations and other proceedings appropriately and duly brought before each transferor agency or duly begun by each transferor agency and pending before it before the effective date of this act, shall continue unabated and remain in force, but shall be assumed and completed by the respective transferee agency.

(d) All orders, rules and regulations duly made and all approvals duly granted by each transferor agency, which are in force immediately before the effective date of this act, shall continue in force and shall thereafter be enforced, until superseded, revised, rescinded or canceled, in accordance with law, by the respective transferee agency.

(e) All books, papers, records, documents, equipment, buildings, facilities, cash and other property, both personal and real, including all such property held in trust, which immediately before the effective date of this act are in the custody of each transferor agency shall be transferred to the respective transferee agency.

(f) All duly existing contracts, leases and obligations of each transferor agency shall continue in effect but shall be assumed by the respective transferee agency. No existing right or remedy of any character shall be lost, impaired or affected by this act.

SECTION 699. Notwithstanding any general or special law to the contrary, the comptroller shall certify that all revenues generated as determined by the provisions of section thirteen of chapter sixty-four A, sections forty-two, forty-three, forty-five, forty-six A and forty-nine of chapter ninety-one and any sums received by the commonwealth from the federal government on account of the activities of the department of environmental management relative to (a) the continuous maintenance dredging; (b) cleaning of all areas within the harbors, inland waters and great ponds of the commonwealth including removal of sunken and abandoned vessels, derelict piers and any other obstacles deemed to be hazardous to navigation; (c) maintenance of state piers; and (d) for the purpose of carrying out the provisions of section thirty-one shall be expended solely upon the following: for the purpose of continuous maintenance dredging and cleaning of harbors, inland waters and great ponds of the commonwealth, including removal of sunken and abandoned vessels, derelict piers and any other obstacles deemed to be hazardous to navigation, by the department of conservation and



recreation, and for the payment of fringe and related costs as determined by the state comptroller. Upon the determination of the state comptroller, any transfers authorized in this act that would divert funds from the purposes stated herein and would result in the loss of receipt of federal reimbursements, grants in aid or other forms of federal assistance, shall not occur. The Comptroller shall certify annually to the General Court the amount of revenues received and expended pursuant to the provisions of this section.

SECTION 700. Notwithstanding any general or special law to the contrary, the transfer of long-term care services provided under item 4000-0600 in section 2 from the division of medical services to the department of elder affairs shall be effective on January 1, 2004. The secretary of the executive office of health and human services shall, after consulting the division of medical assistance, the department of elder affairs and appropriate stakeholders, advocates and provider representatives, report in writing to the house and senate committees on ways and means by October 1, 2003 on the status of the planning process necessary to effectuate a seamless transition of benefits and services provided under that item and to successfully achieve the transfer of functions from the division to the department in the new office of elder services by January 1, 2004.

SECTION 701. (a) Notwithstanding any general or special law to the contrary, in fiscal year 2004, the division of health care finance and policy shall establish nursing facility Medicaid rates, payable out of the Health Care Quality Improvement Trust Fund, established under section 2EEE of chapter 29 of the General Laws, effective July 1, 2003 through June 30, 2004 that cumulatively total \$288,500,000 more than the annual payment rates established by the division under the rates in effect as of June 30, 2002. The division shall adjust per diem rates to reflect any reductions in medicaid utilization. Payments from the fund shall be allocated in the following manner in fiscal year 2004:

(1) effective July 1, 2003, an annual amount of \$99,000,000 in the aggregate to fund the use of 2000 base year cost information for rate determination purposes;

(2) effective July 1, 2003, an annual amount of \$122,500,000 for enhanced payment rates to nursing homes;

(3) effective July 1, 2003, an annual amount of \$50,000,000 to fund a rate add-on for wages, hours and benefits and related employee costs of direct care staff of nursing homes. As a condition for such rate add-on, the division of health care finance and policy shall require that each nursing home document to the division that such funds are spent only on direct care staff by increasing the wages, hours and benefits of direct care staff, increasing the facility's staff-to-patient ratio, or by demonstrably improving the facility's recruitment and retention of nursing staff to provide quality care, which shall include expenditure of funds for nursing facilities which document actual nursing spending that is higher than the median nursing cost per management minute in the base year used to calculate Medicaid nursing facility rates. A facility's direct care staff shall include any and all nursing personnel including registered nurses, licensed practical nurses, and certified nurses' aides hired by the facility from any temporary nursing agency or nursing pool registered with the department of public health. The division shall credit wage increases that are over and above any previously collectively bargained for wage increases. In monitoring compliance for this rate add on, the division's regulations shall adjust any spending compliance test to reflect any Medicaid nursing facility payment reductions, including, but not limited to, rate reductions imposed on or after October 1, 2002. The expenditure of these funds shall be subject to audit by the division in consultation with the department of public health and the division of medical assistance. In implementing this section, the division shall consult with the Nursing Home Advisory Council;

(4) effective July 1, 2003, an annual amount of \$17,000,000 to fund rate adjustments for reasonable capital expenditures by nursing homes, giving priority to nursing homes located or constructed in under-bedded areas as determined by the division of medical assistance, in consultation with the division of health care finance and policy, that meet quality standards established by the division of medical assistance in conjunction with the department of public health and the division of health care finance and policy for the purposes of encouraging the upgrading and maintenance of quality of care in nursing homes, and to fund rate adjustments to eligible nursing homes that meet utilization standards established by the division of medical assistance in consultation with the division of health care finance and policy for the purpose of reducing unnecessary nursing home admissions and facilitating the return of nursing home residents to non-institutional settings;

(5) \$300,000 for the purposes of an audit of funds distributed pursuant to clause (3). The division of health care finance and policy, in consultation with the department of public health and with the assistance of the division of medical assistance, shall establish penalties sufficient to deter noncompliance to be imposed against any facility that expends any or all monies in violation of clause (3), including but not limited to recoupment, assessment of fines or interest. The division shall report to the house and senate committees on ways and means not later than October 1, 2004 a preliminary analysis of funds expended pursuant to said subsection in fiscal year 2004 and a description and timeline for auditing of these funds;

(6) \$250,000 to fund expenses at the division of health care finance and policy related to the implementation and administration of sections 25 and 26 of chapter 118G of the General Laws;

(7) an amount sufficient to implement the provisions of section 622 of chapter 151 of the acts of 1996;

(8) payment for services provided to MassHealth members by pharmacies participating in MassHealth.

(b) The comptroller shall transfer from the Health Care Security Trust Fund to the Health Care Quality Improvement Trust Fund on the first business day of each quarter, the amount indicated by the divisions of health care finance and policy and medical assistance to provide the appropriate rate increases to nursing homes and payment of dispensing fees to pharmacies.

(c) The division of medical assistance shall seek a waiver from the uniformity provisions of 42 U.S.C. 1396(w)(b) to mitigate the impact of the user fee on non-profit continuing care retirement communities and non-profit residential care facilities, provided that any facility included in the waiver calculation shall be established as a non-profit entity

(d) As a condition of receiving any of the funds allocated in this section, all participating nursing homes shall, for the purposes of a medical leave of absence for Medicaid eligible residents, ensure that the bed in said facility occupied by said resident before the hospitalization shall be available upon the return of said resident from an inpatient acute hospital stay for a period of not less than ten days.

SECTION 702. The proposed bridge on United States highway route 44 to span state highway route 58 in the town of Carver shall be designated and known as the Frank R. Mazzilli Bridge. The department of highways shall erect and maintain suitable markers bearing the designation in compliance with the standards of the department.

SECTION 703. The provisions of sections 326 and 327 shall apply to individuals dying on or after the effective date of this act.

SECTION 704. Section 125 shall take effect on June 30, 2003, at which time the comptroller shall transfer any remaining balance in said fund, positive or negative, to the General Fund.

SECTION 705. Sections 494 and 499 of this act shall be effective on October 1, 2003.

SECTION 706. Section 23 of this act shall expire on June 30, 2005.

SECTION 707. Section 24 of this act shall take effect on July 1, 2005.

SECTION 708. Section 25 of this act shall expire on June 30, 2005.

SECTION 709. Section 477 shall take effect on October 1, 2003.

SECTION 710. As of June 30, 2003, any reference to a fund listed in sections 32, 33, 34, 35, 36, 42, 43, 55, 84, 91, 123, 125, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 236, 292, 293, 361, 378, 381, 404, 439, 527, 528, 533 and 536 in any general law or special act, shall be construed to refer to the General Fund.

SECTION 711. Section 162 shall take effect on July 1, 2004.

SECTION 712. Section 201 shall be effective for tax years beginning on or after March 5, 2003.

SECTION 713. Sections 32, 33, 34, 35, 36, 42, 43, 55, 84, 91, 123, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 236, 292, 293, 361, 378, 381, 404, 439, 527, 528, 533 and 536 shall take effect on June 30, 2003, at which time the comptroller shall transfer the balance of the funds repealed by said sections to the Commonwealth Stabilization Fund established pursuant to section 2H of chapter 29 of the General Laws, as amended by section 13(a) of chapter 177 of the acts of 2001.

SECTION 714. Sections 494 and 499 shall expire on October 1, 2004.

SECTION 715. Except as otherwise specified, this act shall take effect on July 1, 2003.